

**Representative Evan J. Vickers** proposes the following substitute bill:

**PHARMACY BENEFITS MANAGER ACT**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill enacts the Pharmacy Benefits Manager Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that a pharmacy benefits manager may not request or accept payment or reimbursement to or from a health benefit plan for providing a pharmacy service, unless, on at least a monthly basis, the pharmacy benefits manager submits to the health benefit plan an invoice for all pharmacy services paid by the pharmacy benefits manager on behalf of the health benefit plan since the last request for payment or reimbursement;
  - ▶ provides that an invoice described in this bill shall state, as a separate item from any other amount:
    - the total amount due to the pharmacy benefit manager for all pharmacy services billed in the invoice; and
    - the total amount paid by the pharmacy benefit manager for the same pharmacy services for which payment is sought in that invoice; and
  - ▶ makes it a misdemeanor violation of the Unfair Practices Act to violate the



26 requirements of this act.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **13-48-101**, Utah Code Annotated 1953

34 **13-48-102**, Utah Code Annotated 1953

35 **13-48-201**, Utah Code Annotated 1953

36 **13-48-301**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **13-48-101** is enacted to read:

40 **CHAPTER 48. PHARMACY BENEFITS MANAGER ACT**

41 **Part 1. General Provisions**

42 **13-48-101. Title.**

43 This chapter is known as the "Pharmacy Benefits Manager Act."

44 Section 2. Section **13-48-102** is enacted to read:

45 **13-48-102. Definitions.**

46 As used in this chapter:

47 (1) "Health benefit plan" means:

48 (a) a health benefit plan as defined in Section 31A-1-301; or

49 (b) a health, dental, medical, Medicare supplement, or conversion program offered

50 under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

51 (2) "Pharmacist" is as defined in Section 58-17b-102.

52 (3) "Pharmacy" is as defined in Section 58-17b-102.

53 (4) "Pharmacy benefits management service" means any of the following services

54 provided to a health benefit plan, or to a participant of the health benefit plan:

55 (a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

56 (b) administering or managing prescription drug benefits provided by the health benefit

57 plan for the benefit of a participant of the health benefit plan, including:

58 (i) mail service pharmacy;

59 (ii) specialty pharmacy;

60 (iii) claims processing;

61 (iv) payment of a claim;

62 (v) retail network management;

63 (vi) clinical formulary development;

64 (vii) clinical formulary management services;

65 (viii) rebate contracting;

66 (ix) rebate administration;

67 (x) a participant compliance program;

68 (xi) a therapeutic intervention program;

69 (xii) a disease management program; or

70 (xiii) a service that is similar to, or related to, a service described in Subsection (4)(a)

71 or (4)(b)(i) through (xii).

72 (5) "Pharmacy benefits manager" means a person that provides a pharmacy benefits  
73 management service to a health benefit plan.

74 (6) "Pharmacy service" means a product, good, or service provided by a pharmacy or  
75 pharmacist to an individual.

76 Section 3. Section **13-48-201** is enacted to read:

77 **Part 2. Disclosures and Payment**

78 **13-48-201. Invoice required for payment or reimbursement -- Protection for**  
79 **proprietary information.**

80 (1) Except as provided in Subsection (4), a pharmacy benefits manager may not request  
81 or accept payment or reimbursement to or from a health benefit plan for providing a pharmacy  
82 service, unless, on at least a monthly basis, the pharmacy benefits manager submits to the  
83 health benefit plan an invoice for all pharmacy services paid by the pharmacy benefits manager  
84 on behalf of the health benefit plan since the last request for payment or reimbursement.

85 (2) An invoice described in Subsection (1) shall state, as a separate item from any other  
86 amount:

87 (a) the total amount due to the pharmacy benefit manager for all pharmacy services

88 billed in the invoice; and

89 (b) the total amount paid by the pharmacy benefit manager for the same pharmacy  
90 services for which payment is sought in that invoice.

91 (3) Subject to the requirements of law, a pharmacy benefits manager may, by contract  
92 with a health benefit plan, protect proprietary information contained in an invoice described in  
93 this section from disclosure by the health benefit plan.

94 (4) A pharmacy benefits manager is not required to comply with this section with  
95 respect to a health benefit plan that:

96 (a) owns, or has a controlling interest in, the pharmacy benefits manager;

97 (b) is owned, in whole or in part, by the pharmacy benefits manager, if the pharmacy  
98 benefits manager has a controlling interest in the health benefit plan; or

99 (c) is owned, in whole or in part, by a person who has a controlling interest in:

100 (i) the health benefit plan; and

101 (ii) the pharmacy benefits manager.

102 Section 4. Section **13-48-301** is enacted to read:

103 **Part 3. Enforcement**

104 **13-48-301. Penalty for violation.**

105 A person who violates this section has engaged in an unfair and deceptive trade practice  
106 in violation of Title 13, Chapter 5, Unfair Practices Act, and is subject to the penalties  
107 described in Section 13-5-15.

# FISCAL NOTE

H.B. 16 1st Sub. (Buff)

SHORT TITLE: **Pharmacy Benefits Manager Act**

SPONSOR: **Vickers, E.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.