

Representative Paul Ray proposes the following substitute bill:

PHARMACY BENEFITS MANAGER OR COORDINATOR

AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a pharmacy benefits manager or coordinator that uses direct or indirect remuneration to report certain information to pharmacies or the pharmacies' pharmacy services administration organization; and
- ▶ prohibits a pharmacy benefits manager or coordinator from preventing a pharmacist from disclosing cost information to a patient.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-17b-626, Utah Code Annotated 1953



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

Section 1. Section **58-17b-626** is enacted to read:

58-17b-626. Direct or indirect remuneration by pharmacy benefits managers --

Disclosure of customer costs.

(1) As used in this section:

(a) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.

(b) "Direct or indirect remuneration" means any adjustment in the total compensation:

(i) received by a pharmacy from a pharmacy benefits manager or coordinator for the sale of a drug, device, or other product or service; and

(ii) that is determined after the sale of the product or service.

(c) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

(d) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(i) contracting with a pharmacy benefits manager or coordinator on behalf of the pharmacy; and

(ii) managing a pharmacy's claims payments from third-party payers.

(e) (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

(f) "Sale" means a prescription drug claim covered by a health benefit plan.

(2) If a pharmacy benefits manager or coordinator engages in direct or indirect remuneration with a pharmacy, the pharmacy benefits manager or coordinator shall make a reimbursement report available to the pharmacy upon the pharmacy's request.

(3) For the reimbursement report described in Subsection (2), the pharmacy benefits manager or coordinator shall:

(a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and

- 57 (b) provide the reimbursement report:
58 (i) in accordance with the contract between the pharmacy and the pharmacy service
59 entity;
60 (ii) in an electronic format that is easily accessible; and
61 (iii) within 90 days after the day on which the pharmacy benefits manager or
62 coordinator receives a report of a sale of a product or service by the pharmacy.
63 (4) A pharmacy services administration organization and a pharmacy benefits manager
64 or coordinator shall, upon a pharmacy's request, provide the pharmacy with:
65 (a) the reasons for any adjustments contained in a reimbursement report; and
66 (b) an explanation of the reasons provided in Subsection (4)(a).
67 (5) (a) A pharmacy benefits manager or coordinator may not prohibit or penalize the
68 disclosure by a pharmacist of:
69 (i) an insured customer's cost share for a covered prescription drug;
70 (ii) the availability of any therapeutically equivalent alternative medications; or
71 (iii) alternative methods of paying for the prescription medication, including paying the
72 cash price, that are less expensive than the cost share of the prescription drug.
73 (b) Penalties that are prohibited under Subsection (5)(a) include increased utilization
74 review, reduced payments, and other financial disincentives.
75 (6) A pharmacy benefits manager or coordinator may not require an insured customer
76 to pay, at the point of sale for a covered prescription drug, more than the lesser of:
77 (a) the applicable cost share of the prescription drug being dispensed; or
78 (b) the retail price of the drug without prescription drug coverage.