
A BILL FOR AN ACT

RELATING TO PHARMACY BENEFIT MANAGEMENT COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that numerous states are
2 proposing or considering legislation to regulate pharmacy
3 benefit management companies. Pharmacy benefit management
4 companies are the intermediaries that negotiate services and
5 costs between pharmaceutical companies and third party payors,
6 such as insurance companies, businesses, and cash-paying
7 customers. Proposals seek to ensure financial reliability,
8 regulate the licensing of pharmacy benefit management companies,
9 mandate full disclosure of drug costs and financial contracts
10 while eliminating the term "mandatory" from any pharmacy benefit
11 contract. In addition, pharmacy providers, such as chain drug
12 stores and independent pharmacies, are currently subjected to
13 unregulated auditing practices, and additional legislation would
14 establish a more regimented and reliable audit procedure.

15 The purpose of this Act is to require pharmacy benefit
16 management companies to register with the insurance commissioner
17 before administering pharmacy benefits of health insurers and



18 implement regulations on pharmacy benefit management companies
19 in the State.

20 SECTION 2. The Hawaii Revised Statutes, is amended by
21 adding a new chapter to be appropriately designated and to read
22 as follows:

23 "CHAPTER

24 PHARMACY BENEFIT MANAGEMENT COMPANIES

25 § -1 **Registration.** (a) No later than July 1, 2011, a
26 pharmacy benefit management company shall register with the
27 insurance commissioner before providing services to residents of
28 the State. Registrations shall be effective for two years and
29 may be renewed for an additional two years.

30 (b) The insurance commissioner may deny, suspend, revoke,
31 or refuse to renew a registration in circumstances specified in
32 rules adopted pursuant to this part.

33 § -2 **Prohibited activities.** (a) A pharmacy benefit
34 management company shall not exclude any willing provider from
35 any contract offered within the State, including the Hawaii
36 employer-union health benefits trust fund, public assistance
37 programs, and commercial entities.

38 (b) A pharmacy benefit management program shall take no
39 action that would restrict a patient's choice of pharmacy from



40 which to receive prescription medications, including requiring
41 patients to receive prescription medications from mail-order
42 pharmacies located outside the State.

43 (c) A pharmacy benefit management company shall not
44 manipulate the amounts of drug co-payments that it charges in a
45 manner that would encourage patients to receive prescription
46 medications from a mail-order pharmacy located outside the
47 State.

48 (d) A pharmacy benefit management company shall not offer
49 different dispensing reimbursement amounts among willing
50 providers for the same prescription medications.

51 (e) A pharmacy benefit management company shall not
52 establish reimbursement amounts for providers that are less than
53 a provider's acquisition cost plus a professional dispensing
54 fee.

55 (f) A pharmacy benefit management company shall not charge
56 or receive reimbursement for rebranded pharmaceutical products
57 or pharmaceutical products with an altered National Drug Code.

58 (g) A pharmacy benefit management company shall not ship,
59 mail, or deliver drugs or devices to a person in the State
60 through a non-resident pharmacy unless that non-resident



61 pharmacy is registered with or has a permit issued by the board
62 of pharmacy.

63 **§ -3 Violations; penalties.** (a) The insurance
64 commissioner may assess a pharmacy benefit management company in
65 violation of this part a fine of up to \$10,000 for each
66 violation. In addition, the insurance commissioner may direct
67 the pharmacy benefit management company to cease and desist
68 prohibited activity, take specific affirmative corrective
69 action, or make restitution of money, property, or other assets.

70 (b) A pharmacy benefit management company may appeal any
71 decision made by the insurance commissioner under this part,
72 whereupon the opportunity for an administrative hearing under
73 chapter 91 shall be afforded. Any pharmacy benefit management
74 company aggrieved by the final decision and order shall be
75 entitled to judicial review in accordance with chapter 91 or may
76 submit the matter to binding arbitration.

77 **§ -4 Formularies.** A pharmacy benefit management company
78 registered under this chapter shall work with the insurance
79 commissioner to provide access to formularies.

80 **§ -5 Annual Reports.** Beginning in 2012, the insurance
81 commissioner shall submit reports annually to the legislature no
82 later than twenty days prior to the convening of each regular



83 session regarding the status of pharmacy benefit management
84 companies registered under this chapter.

85 **§ -6 Rules.** The insurance commissioner shall adopt
86 rules pursuant to chapter 91 for the purposes of implementing
87 this part, including a schedule of allowable acquisition costs
88 and professional dispensing fees."

89 SECTION 3. This Act shall take effect July 1, 2050.



Report Title:

Pharmacy Benefit Management Companies

Description:

Requires registration of and regulates practices of pharmacy benefit management companies. Requires pharmacy benefit management companies to work with the Insurance Commissioner to provide access to formularies, and requires an annual report to the legislature regarding the status of pharmacy benefit management companies. Effective July 1, 2050. (HB275 HD1)

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