
A BILL FOR AN ACT

RELATING TO PHARMACY BENEFITS MANAGERS.

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

1 SECTION 1. The legislature finds that numerous states have
2 enacted or are considering legislation to regulate pharmacy
3 benefit managers. Pharmacy benefit managers are intermediaries
4 that negotiate services and costs between pharmaceutical
5 companies and third party payors, such as insurance companies,
6 businesses, and cash-paying customers. Pharmacy benefits
7 managers manage all aspects of a prescription drug benefit plan,
8 from establishing formularies of preferred drugs and
9 negotiations with drug manufacturers and pharmacies, to
10 ownership of their own mail order pharmacy to directly fill
11 prescriptions. The three largest pharmacy benefit managers
12 administer prescription drug benefits for approximately eighty
13 per cent of insured prescriptions and ninety per cent of insured
14 mail order prescriptions.

15 Pharmacy benefits managers often use a patient's
16 prescription drug claims information to directly market to that
17 patient the services of a preferred pharmacy provider that is
18 owned by the pharmacy benefits manager. This practice allows



1 pharmacy benefits managers to influence patient behavior in a
2 manner that drives business to the pharmacy benefits managers'
3 own subsidiary pharmacies. Such a practice would appear to be
4 unfair and deceptive since the patient often does not know that
5 the patient's claim information is being used in this manner and
6 that the pharmacy network being advertised is affiliated with or
7 owned by the pharmacy benefits manager.

8 The purpose of this Act is to prohibit pharmacy benefits
9 managers from using a patient's claim information to market or
10 advertise to that patient the services of a preferred pharmacy
11 network that is owned by the pharmacy benefits manager.

12 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§481B- Pharmacy benefits managers; prohibited
16 marketing practices. (a) A pharmacy benefit management company
17 shall take no action that would restrict a patient's choice of
18 pharmacy from which to receive prescription drug benefits,
19 including:

20 (1) Use of an individual's prior prescription drug
21 benefits claim information, unless use of the
22 individual's prescription drug benefits claim



1 information is medically necessary to the health and
2 safety of the individual or the individual has
3 consented to use of the information; or

4 (2) Requiring patients to receive prescription drug
5 benefits from any pharmacy affiliated with or owned
6 wholly or in part by the pharmacy benefit management
7 company, including mail order pharmacies.

8 (b) As used in this section, "pharmacy benefits manager"
9 means any person, business, or entity that performs pharmacy
10 benefits management, including but not limited to a person or
11 entity under contract with a pharmacy benefits manager to
12 perform pharmacy benefits management on behalf of a managed care
13 company, nonprofit hospital or medical service organization,
14 insurance company, third-party payor, or health program
15 administered by the State."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2112.



Report Title:

Pharmacy Benefits Managers; Prohibited Practices

Description:

Prohibits a pharmacy benefits manager from using a patient's prescription drug benefits claim information to market to that patient the services of a preferred pharmacy network that is owned by the pharmacy benefits manager, except in certain situations. Effective July 1, 2112. (HB62 HD2)

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