
A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

1 SECTION 1. The legislature finds that many pharmacy
2 benefit management companies and other prescription drug
3 providers impose certain requirements, including the requirement
4 for beneficiaries to purchase prescription drugs from a mail-
5 order pharmacy. This requirement can cause an inconvenience for
6 a person who needs to purchase prescription medications and may
7 even prevent the person from promptly obtaining urgently needed
8 prescription medications, by requiring the person to wait for
9 mail-order delivery. The legislature finds that the consumer
10 should have the choice to purchase prescription medications
11 either from a mail-order pharmacy or from a local retail
12 pharmacy.

13 The purpose of this Act is to:

14 (1) Allow beneficiaries of prescription drug benefits
15 providers to opt out of the requirement to purchase
16 prescription drugs from a mail-order pharmacy and
17 alternatively purchase prescription drugs from a
18 retail pharmacy;



1 (b) A pharmacy benefit management company shall not
2 restrict a patient's choice of pharmacy from which to receive
3 prescription medications, including requiring patients to
4 receive prescription medications from mail-order pharmacies.

5 (c) A pharmacy benefit manager shall not manipulate the
6 amounts of drug co-payments that it charges in a manner that
7 would encourage beneficiaries to receive prescription
8 medications through a mail-order pharmacy.

9 § -2 **Violations; penalties.** (a) The insurance
10 commissioner may assess a fine of up to \$10,000 for each
11 violation upon a pharmacy benefit management company or any
12 other provider of prescription drug benefits who is in violation
13 of this chapter. In addition, the insurance commissioner may
14 direct the pharmacy benefit management company to cease and
15 desist prohibited activity, take specific affirmative corrective
16 action, or make restitution of money, property, or other assets.

17 (b) A pharmacy benefit management company or any
18 prescription drug benefits provider may appeal any decision made
19 by the insurance commissioner under this chapter, whereupon the
20 opportunity for an administrative hearing under chapter 91 shall
21 be afforded. Any pharmacy benefit management company or
22 prescription drug benefits provider aggrieved by the final



1 decision and order shall be entitled to judicial review in
2 accordance with chapter 91 or may submit the matter to binding
3 arbitration."

4 SECTION 3. Chapter 87A, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§87A- Prescription drugs; opt out option. Individual
8 beneficiaries enrolled in a Hawaii employer-union health
9 benefits trust fund health benefits plan may opt out of a plan
10 requirement to purchase prescription drugs from a mail-order
11 pharmacy to alternatively purchase prescription drugs from a
12 retail pharmacy."

13 SECTION 4. (a) All entities affected by the requirements
14 of this measure, including pharmacy benefit management
15 companies, prescription drug benefits providers, and the Hawaii
16 employer-health benefits trust fund, shall each submit a report
17 to the legislature no later than twenty days prior to the
18 convening of the regular session of 2018.

19 (b) Each individual report shall include:

20 (1) The number of subscribers, dependent beneficiaries,
21 and employers of the entity affected by the provisions
22 of this measure;



1 (2) The total number of subscribers, dependent
2 beneficiaries, and employers of the entity who opted
3 out of the requirement to purchase prescription drugs
4 from a mail-order pharmacy; and

5 (3) The overall economic impact on the entity of the
6 opt-out provisions, including any increased costs to
7 prescription drug benefits plans, increased costs to
8 plan members or beneficiaries, or any cost savings to
9 plan members or beneficiaries.

10 SECTION 5. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 6. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2013;
15 provided that this Act shall be repealed on June 30, 2018.

16



Report Title:

Prescription Drugs; Prescription Drug Benefits; Mail-Order Pharmacy; Opt out

Description:

Allows beneficiaries of prescription drug benefits providers to opt out of the requirement to purchase prescription drugs from a mail-order pharmacy and alternatively purchase prescription drugs from a retail pharmacy. Prohibits a pharmacy benefit management company from restricting a patient's choice of pharmacy from which to receive prescription medications. Prohibits a pharmacy benefits manager from providing incentive copayments to members for the utilization of mail-order pharmacies. Requires affected entities to report to the legislature prior to the regular session of 2018. Repeals 06/30/2018. (SD1)

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