
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 managers and other prescription drug benefit plan
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 beneficiary who needs to purchase prescription drugs and may
7 even prevent the beneficiary from promptly obtaining urgently
8 needed prescription drugs, by requiring the beneficiary to wait
9 for mail order delivery. The legislature finds that the
10 beneficiary should have the choice to purchase prescription
11 drugs from a mail order pharmacy or a local retail pharmacy.

12 The purpose of this Act is to:

13 (1) Allow beneficiaries of prescription drug benefit plans
14 to opt out of the requirement to purchase prescription
15 drugs from a mail order pharmacy and, as an
16 alternative, choose to purchase prescription drugs
17 from a retail pharmacy within the pharmacy benefit
18 manager's retail pharmacy network;



1 benefit manager to perform pharmacy benefit management on behalf
2 of a managed care company, nonprofit hospital or medical service
3 organization, insurance company, third-party payor, or health
4 program administered by the State.

5 "Pharmacy benefit manager's retail pharmacy network" means
6 a retail pharmacy located within the State and contracted by the
7 pharmacy benefit manager to sell prescription drugs to
8 beneficiaries of a prescription drug benefit plan administered
9 by the manager.

10 "Prescription drug benefit plan" means an accident and
11 sickness insurance plan or health benefits plan that includes
12 coverage for prescription drugs. For the purposes of this
13 definition, a "health benefits plan" has the same meaning as in
14 section 87A-1.

15 "Prescription drugs benefit plan provider" means a person
16 who provides prescription drug coverage as part of an accident
17 and health or sickness insurance contract or other type of
18 health insurance or benefits plan that is offered by the person
19 and is subject to regulation under article 10A of chapter 431,
20 chapter 432, or chapter 432D.

21 § -2 Prescription drugs; mail order opt out option. (a)

22 A beneficiary of any prescription drug benefit plan within the

1 State may opt out of a plan requirement to purchase prescription
2 drugs by mail order and, as an alternative, choose to purchase
3 prescriptions drugs from a pharmacy in accordance with
4 subsection (b).

5 (b) If a beneficiary of a prescription drug benefit plan
6 chooses not to purchase prescription drugs by mail order, the
7 pharmacy benefit manager for the plan shall not restrict the
8 beneficiary from purchasing the prescription drugs from any
9 pharmacy of the beneficiary's choice within the manager's retail
10 pharmacy network.

11 (c) From the effective date of this section, no
12 prescription drug benefit plan provider shall prohibit or
13 restrict a pharmacy benefit manager from complying with this
14 chapter.

15 § -3 **Violations; penalties.** (a) The insurance
16 commissioner may assess a fine of up to \$10,000 for each
17 violation by a pharmacy benefit manager or prescription drug
18 benefit plan provider who is in violation of section -2(b) or
19 (c). In addition, the insurance commissioner may direct the
20 pharmacy benefit manager to cease and desist prohibited
21 activity, take specific affirmative corrective action, or make
22 restitution of money, property, or other assets.



1 (b) A pharmacy benefit manager or prescription drug
2 benefit plan provider may appeal any decision made by the
3 insurance commissioner under this chapter, whereupon the
4 opportunity for an administrative hearing under chapter 91 shall
5 be afforded. Any pharmacy benefit manager or prescription drug
6 benefit plan provider aggrieved by the final decision and order
7 shall be entitled to judicial review in accordance with chapter
8 91.

9 § -4 **Application.** If this chapter or any provision of
10 this chapter conflicts at any time with any federal law, then
11 the federal law shall prevail and this chapter or the relevant
12 provisions of this chapter shall become ineffective and invalid.
13 The ineffectiveness or invalidity of this chapter or any of its
14 provisions shall not affect any other provisions or applications
15 of this chapter, which shall be given effect without the invalid
16 provision or application, and to this end, the provisions of
17 this chapter are severable."

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

21 "§87A- Prescription drugs; mail order opt out option.

22 A beneficiary of a Hawaii employer-union health benefits trust



1 fund health benefits plan may opt out of a plan requirement to
2 purchase prescription drugs from a mail order pharmacy and, as
3 an alternative, choose to purchase prescription drugs from a
4 pharmacy in accordance with section -2(b)."

5 SECTION 4. (a) Each pharmacy benefit manager,
6 prescription drug benefit plan provider, and the Hawaii
7 employer-union health benefits trust fund shall submit a report
8 to the legislature no later than twenty days prior to the
9 convening of the regular session of 2018.

10 (b) Each report shall include:

- 11 (1) The number of beneficiaries affected by the provisions
12 of this measure;
- 13 (2) The number of beneficiaries who opted out of a
14 requirement to purchase prescription drugs from a mail
15 order pharmacy; and
- 16 (3) The overall economic impact on the reporting entity of
17 the opt out provisions, including any increased costs
18 to prescription drug benefit plans, increased costs to
19 plan beneficiaries, or any cost savings to plan
20 beneficiaries.

21 SECTION 5. If any provision of this Act, or the
22 application thereof to any person or circumstance, is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 6. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2050;
7 provided that this Act shall be repealed on June 30, 2018.



Report Title:

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

Description:

Allows beneficiaries of prescription drug benefit plans to opt out of the requirement to purchase prescription drugs from a mail order pharmacy and, as an alternative, choose to purchase prescription drugs from a pharmacy within the pharmacy benefit manager's retail pharmacy network. Prohibits a pharmacy benefit manager from restricting a beneficiary's choice of pharmacy from which to purchase prescription drugs if the pharmacy is within the network. Requires affected entities to report to the legislature prior to the regular session of 2018. Repeals 06/30/2018. Effective 07/01/2050. (SD2)

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