205.647 State pharmacy benefit manager's report to Department for Medicaid Services -- Requirements for Medicaid services contracts entered into or renewed on or after March 27, 2020 -- Administrative regulations -- Reimbursement rates between pharmacy benefit manager and contracted pharmacy.

(1) As used in this section, "state pharmacy benefit manager" means a pharmacy benefit manager, as defined in KRS 304.9-020, contracted by the department, pursuant to KRS 205.5512, to administer pharmacy benefits for all Medicaid recipients enrolled in a managed care organization in the Commonwealth.

(2) The state pharmacy benefit manager shall, upon receipt of a request from the Department for Medicaid Services, provide the following information to the Department for Medicaid Services in a form and manner prescribed by the Department for Medicaid Services:

(a) The total Medicaid dollars paid to the state pharmacy benefit manager by a managed care organization and the total amount of Medicaid dollars paid to the pharmacy benefit manager by a managed care organization which were not subsequently paid to a pharmacy licensed in Kentucky;

(b) 1. The average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by the state pharmacy benefit manager to licensed pharmacies with which the state pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common.

2. For the purposes of this subsection, "average reimbursement" means a statistical methodology selected by the Department for Medicaid Services via any administrative regulations promulgated pursuant to this section which shall include, at a minimum, the median and mean;

(c) The average reimbursement, by drug ingredient cost, dispensing fee, and any other fee, paid by the state pharmacy benefit manager to pharmacies licensed in Kentucky which operate more than ten (10) locations;

(d) The average reimbursement by drug ingredient cost, dispensing fee, and any other fee, paid by the state pharmacy benefit manager to pharmacies licensed in Kentucky which operate ten (10) or fewer locations; and

(e) All common ownership, management, common members of a board of directors, shared managers, or control of the state pharmacy benefit manager, or any of the state pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company with any managed care organization contracted to administer Kentucky Medicaid benefits, any entity which contracts on behalf of a pharmacy, or any pharmacy services administration organization; or any

common ownership, management, common members of a board of directors, shared managers, or control of a pharmacy services administration organization that is contracted with the state pharmacy benefit manager, with any drug wholesaler or distributor or any of the pharmacy services administration organization's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, common members of a board of directors, manager, or holding company.

(3) All information provided by the state pharmacy benefit manager pursuant to subsection (2) of this section shall reflect data for the most recent full calendar year and shall be divided by month. This information shall be managed by the Department for Medicaid Services in accordance with applicable law and shall be exempt from KRS 61.870 to 61.884 in accordance with KRS 61.878(1)(c).

(4) Any contract entered into or renewed for the delivery of Medicaid services by a managed care organization on or after March 27, 2020, shall comply with the following requirements:

(a) The Department for Medicaid Services shall, in accordance with KRS 205.5514, set or create, and may change at any time for any reason, reimbursement rates between the state pharmacy benefit manager and a contracted pharmacy, or an entity which contracts on behalf of a pharmacy. Reimbursement rates shall include dispensing fees which take into account applicable guidance by the Center for Medicare and Medicaid Services;

(b) All laws and administrative regulations promulgated by the Department for Medicaid Services, including but not limited to the regulation of maximum allowable costs;

(c) The Department for Medicaid Services shall review and may approve or deny any contract between the managed care organization and the state pharmacy benefit manager;

(d) Any fee established, modified, or implemented directly or indirectly by a managed care organization, the state pharmacy benefit manager, or an entity which contracts on behalf of a pharmacy that is directly or indirectly charged to, passed onto, or required to be paid by a pharmacy services administration organization, pharmacy, or Medicaid recipient shall be submitted to the Department for Medicaid Services for approval. This paragraph shall not apply to any membership fee or service fee established, modified, or implemented by a pharmacy services administration organization on a pharmacy licensed in Kentucky that is not directly or indirectly related to product reimbursement; and

(e) The provisions of KRS 205.5512 and 205.5514.

(5) The Department for Medicaid Services may promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and administer its responsibilities under this section. These administrative regulations may include but are not limited to the assessment of fines, penalties, or sanctions for noncompliance.

(6) The Department for Medicaid Services may consider any information ascertained pursuant to this section in the setting, creation, or approval of reimbursement rates

used by a pharmacy benefit manager or an entity which contracts on behalf of a pharmacy.

Effective: March 27, 2020

History: Amended 2020 Ky. Acts ch. 70, sec. 8, effective March 27, 2020. -- Amended 2018 Ky. Acts ch. 157, sec. 1, effective July 1, 2018. -- Created 2016 Ky. Acts ch. 79, sec. 7, effective July 15, 2016.

2026-2028 Budget Reference. See State/Executive Branch Budget, 2026 Ky. Acts ch. 168, Pt. I, G, 2, b, (8) at 2086.