

205.5514 Department's duties regarding state pharmacy benefit management.

- (1) The department shall:
 - (a) Establish a single preferred drug list to be used by the state pharmacy benefit manager for each managed care organization with whom the department contracts for the delivery of Medicaid services; and
 - (b) Promulgate administrative regulations that establish:
 1. Reimbursement methodologies; and
 2. Dispensing fees which may take into account applicable guidance by the Centers for Medicare and Medicaid Services and which may, to the extent permitted under federal law, vary by pharmacy type, including rural and independently owned pharmacies, chain pharmacies, and pharmacies owned or contracted by a health care facility that is registered as a covered entity pursuant to 42 U.S.C. sec. 256b.

Reimbursement methodologies established by administrative regulations shall not discriminate against pharmacies owned or contracted by a health care facility that is registered as a covered entity pursuant to 42 U.S.C. sec. 256b, to the extent allowable by the Centers for Medicare and Medicaid Services.

- (2) The reimbursement methodologies and dispensing fees established by the department pursuant to subsection (1) of this section shall be used by the state pharmacy benefit manager for each managed care organization with whom the department contracts for the delivery of Medicaid services.
- (3) The state pharmacy benefit manager shall administer, adjudicate, and reimburse pharmacy benefit claims submitted by pharmacies to the state pharmacy benefit manager in accordance with:
 - (a) The terms of any contract between a health care facility that is registered as a covered entity pursuant to 42 U.S.C. sec. 256b and a Medicaid managed care organization;
 - (b) The terms and conditions of the contract between the state pharmacy benefit manager and the Commonwealth; and
 - (c) The reimbursement methodologies and dispensing fees established by the department, pursuant to subsection (1) of this section.
- (4) The following shall apply to the state pharmacy benefit manager, the contract between the state pharmacy benefit manager and the department, and, where applicable, any contract between the state pharmacy benefit manager and a pharmacy:
 - (a) The department shall be responsible for reviewing and shall approve or deny:
 1. Any contract, any change in the terms of a contract, or suspension or termination of a contract between the state pharmacy benefit manager and a pharmacy licensed under KRS Chapter 315; and
 2. Any contract, any change in the terms of a contract, or suspension or termination of a contract between the state pharmacy benefit manager and an entity that contracts on behalf of a pharmacy licensed under KRS

Chapter 315;

- (b) The state pharmacy benefit manager shall comply with KRS 304.9-053, 304.9-054, and 304.9-055;
- (c) After December 1, 2020, the state pharmacy benefit manager shall not enter into, renew, extend, or amend a national contract with any pharmacy that is inconsistent with:
 - 1. The terms and conditions of the contract between the state pharmacy benefit manager and the Commonwealth; or
 - 2. The reimbursement methodologies and dispensing fees established by the department, pursuant to subsection (1) of this section;
- (d)
 - 1. When creating or establishing a pharmacy network for a managed care organization with whom the department contracts for the delivery of Medicaid services, the state pharmacy benefit manager shall not discriminate against any pharmacy or pharmacist that is:
 - a. Located within the geographic coverage area of the managed care organization; and
 - b. Willing to agree to or accept reasonable terms and conditions established by the state pharmacy benefit manager, or other administrator for network participation, including obtaining preferred participation status.
 - 2. Discrimination prohibited by this paragraph shall include denying a pharmacy the opportunity to participate in a pharmacy network at preferred participation status; and
- (e) A contract between the state pharmacy benefit manager and a pharmacy shall not release the state pharmacy benefit manager from the obligation to make any payments owed to the pharmacy for services rendered prior to the termination of the contract between the state pharmacy benefit manager and the pharmacy or removal of the pharmacy from the pharmacy network.

Effective: March 27, 2020

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