

AN ACT relating to pharmacy benefit managers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 304.17A-162 is amended to read as follows:

(1) *A pharmacy benefit manager shall*~~[All contracts between a pharmacy benefit manager and a contracted pharmacy shall include]:~~

(a) *Identify to the contracted pharmacy* the sources used by the pharmacy benefit manager to calculate the drug product reimbursement paid for covered drugs available under the pharmacy health benefit plan administered by the pharmacy benefit manager;

(b) *Establish* a process *for the contracted pharmacy* to appeal,~~[investigate,]~~ and resolve disputes regarding the maximum allowable cost pricing. The process shall include the following provisions:

1. The right to appeal shall be limited to sixty (60) days following the initial claim;
2. The appeal shall be investigated and resolved within ten (10) days;~~[and]~~
3. If the appeal is denied, the pharmacy benefit manager shall provide the reason for the denial and identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost; and

*4. If a pharmacy's appeal is determined by the pharmacy benefits manager to be valid, the pharmacy benefits manager shall adjust the maximum allowable cost of the drug or medical product for the appealing pharmacy and for all other similarly situated pharmacies in the network of that pharmacy benefits manager. The adjustment shall be effective from the date of service in filling a prescription for a patient, and the pharmacy benefit manager shall provide retroactive reimbursement to the appealing pharmacy and all other similarly*

situated pharmacies in the network in the next payment cycle

~~[(c) Within one (1) year from June 25, 2013, a process to provide for retroactive reimbursements].~~

(2) If a price update is warranted, as a result of an appeal granted under subsection (1) of this section the pharmacy benefits manager shall make the change in maximum allowable cost, permit the challenging pharmacy to reverse and resubmit the claim in question, and make the maximum allowable cost change effective for each of the similarly contracted Kentucky pharmacies.

(3) For every drug for which the pharmacy benefit manager establishes a maximum allowable cost to determine the drug product reimbursement, the pharmacy benefit manager shall:

- (a) Make available to the contracted~~[Include in the contract with the]~~ pharmacy information identifying the national drug pricing compendia or sources used to obtain the drug price data;
- (b) Make available to a contracted pharmacy the drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug;
- (c) Review and make necessary adjustments to the maximum allowable cost for every drug at least every seven (7)~~[fourteen (14)]~~ days and shall immediately utilize the updated maximum allowable costs in calculating the payments made to the contracted pharmacy;~~[and]~~
- (d) Make available to a contracted pharmacy weekly updates to the list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug; and
- (e) Ensure that only drugs subject to maximum allowable costs are drugs listed as A-rated in the most recent version of the United States Food and Drug Administration Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book, are generally available for

*purchase by pharmacies in Kentucky from national or regional wholesalers, and are not obsolete, temporarily unavailable, or listed on a drug shortage list.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*(1) In order to provide services as a pharmacy benefits manager or any of the services included under the definition of pharmacy benefits manager, an entity shall first obtain a license from the Kentucky Department of Insurance.*

*(2) The department shall promulgate administrative regulations to establish licensure procedures, required disclosures for pharmacy benefits managers, and other necessary requirements for carrying out and enforcing the provisions of this section and Section 1 of this Act. The licensure procedures shall, at a minimum, include the completion of an application form that shall include the name and address of an agent for service of process, the payment of a licensure fee, and evidence of the procurement of a surety bond. Enforcement provisions shall include requirements to produce records upon request of the department.*

*(3) The department may suspend, revoke, or refuse to issue or renew a pharmacy benefits manager license and may levy fines for each count of:*

*(a) Noncompliance with any of the provisions of this section or Section 1 of this Act;*

*(b) Conduct likely to mislead, deceive, or defraud the public or the department;*

*(c) Unfair or deceptive business practices; or*

*(d) Nonpayment of a renewal fee or fine.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 304-17A IS CREATED TO READ AS FOLLOWS:

*On or before the effective date of Sections 1 and 2 of this Act, a pharmacy benefits manager shall supply a contracted pharmacy with a contract that complies with the*

*provisions of Sections 1 and 2 of this Act.*