

1 AN ACT relating to prescription drugs.

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

3 ➔Section 1. KRS 304.17A-164 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Cost sharing" means the cost to an individual insured under a health benefit
6 plan according to any coverage limit, copayment, coinsurance, deductible, or
7 other out-of-pocket expense requirements imposed by the plan;

8 (b) ***"Financial assistance" means any discount, payment, product voucher,***
9 ***coupon, or other assistance that is offered or provided by a drug***
10 ***manufacturer, nonprofit group, or other third-party to pay, or reduce, the***
11 ***cost of:***

12 ***1. A prescription drug for an insured; or***

13 ***2. An insured's cost-sharing requirements associated with a prescription***
14 ***drug;***

15 (c) ***"Generic alternative" means a drug that is designated to be therapeutically***
16 ***equivalent, as indicated by the United States Food and Drug***
17 ***Administration's Approved Drug Products with Therapeutic Equivalence***
18 ***Evaluations, except that a drug shall not be considered a generic alternative***
19 ***unless the drug is nationally available;***

20 (d) "Insurer" includes:

21 1. An insurer offering a health benefit plan providing coverage for
22 pharmacy benefits; or

23 2. Any other administrator of pharmacy benefits under a health benefit
24 plan;

25 (e)~~(e)}~~ "Pharmacy" includes:

26 1. A pharmacy, as defined in KRS Chapter 315;

27 2. A pharmacist, as defined in KRS Chapter 315; or

- 1 3. Any employee of a pharmacy or pharmacist; and
- 2 ~~(f)~~~~(d)~~ "Pharmacy benefit manager" has the same meaning as in KRS 304.17A-
- 3 161.
- 4 (2) An insurer issuing or renewing a health benefit plan on or after **the effective date of**
- 5 **this Act**~~[January 1, 2019]~~, or pharmacy benefit manager, shall not:
- 6 (a) Require an insured purchasing a prescription drug to pay a cost-sharing
- 7 amount greater than the amount the insured would pay for the drug if he or she
- 8 were to purchase the drug without coverage under a health benefit plan;
- 9 (b) **Prohibit financial assistance received by an insured from being applied**
- 10 **toward any cost sharing owed by the insured under the health benefit plan**
- 11 **unless the prohibition is required to comply with federal law or the**
- 12 **financial assistance is provided for a prescription drug for which there is a**
- 13 **generic alternative;**
- 14 (c) Prohibit a pharmacy from discussing any information under subsection (3) of
- 15 this section; and
- 16 ~~(d)~~~~(e)~~ Impose a penalty on a pharmacy for complying with this section.
- 17 (3) A pharmacist shall have the right to provide an insured information regarding the
- 18 applicable limitations on his or her cost-sharing pursuant to this section for a
- 19 prescription drug.
- 20 (4) Any amount paid by, **or on behalf of,** an insured under subsection (2)(a) **and (b)** of
- 21 this section shall be attributable toward any annual out-of-pocket maximums under
- 22 the insured's health benefit plan. **If in any situation the requirements of this**
- 23 **subsection are invalid or incapable of being enforced due to conflict with federal**
- 24 **law, the requirements of this subsection shall remain in full force and effect with**
- 25 **respect to all insurers and in all situations where no such conflict exists.**
- 26 **(5) Subsection (2)(b) and subsection (4) of this section shall not apply with respect to**
- 27 **health coverage provided to a state employee as defined in KRS 18A.225.**

1 ➔Section 2. This Act takes effect January 1, 2021.