

1 AN ACT relating to pharmacy benefits in the Medicaid program and declaring an
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS 205.510 to 205.560 IS CREATED
5 TO READ AS FOLLOWS:

6 *(1) As used in this section:*

7 *(a) "Department" means the Department for Medicaid Services;*

8 *(b) "Managed care organization" has the same meaning as in KRS 205.532;*

9 *and*

10 *(c) "State pharmacy benefit manager" has the same meaning as in KRS*
11 *205.5510.*

12 *(2) By December 31, 2021, the department shall, in accordance with KRS Chapter*
13 *45A, select and enter into a contract, the effective date of which shall not be later*
14 *than December 31 2021, with a single independent entity for the purpose of*
15 *monitoring all Medicaid pharmacy benefit claims for every Medicaid beneficiary*
16 *regardless of whether the beneficiary's Medicaid benefits are managed through a*
17 *fee-for-service or managed-care model.*

18 *(3) To be eligible to receive a contract pursuant to this section, an entity shall:*

19 *(a) Have at least five (5) years of experience reviewing and auditing pharmacy*
20 *claims and pharmacy benefit manager operations;*

21 *(b) Be capable of performing the analysis of pharmacy benefit claims to*
22 *validate accuracy and identify errors in near real-time;*

23 *(c) Not be an entity that performs annual retroactive audits of pharmacy*
24 *benefit claims for the department; and*

25 *(d) Not be affiliated by common parent company or holding company, share*
26 *any common members of the board of directors, or share managers in*
27 *common with the state pharmacy benefit manager or a managed care*

1 organization.

2 (4) The entity contracted by the department pursuant to subsection (2) of this section
3 shall:

4 (a) Be granted full access to:

5 1. The state pharmacy benefit manager contract awarded by the
6 department pursuant to KRS 205.5512, and all pertinent reference
7 documents within that contract, including but not limited to any price
8 lists or specialty drug price lists which shall be provided to the
9 monitoring entity contracted pursuant to this section by the state
10 pharmacy benefit manager and which shall be updated by the state
11 pharmacy benefit manager within five (5) days of the effective date of
12 any pricing changes;

13 2. Any other contract that defines the state pharmacy benefit manager's
14 obligations and responsibilities as it relates to processing Medicaid
15 pharmacy benefit claims in the Commonwealth, including any
16 contract between the state pharmacy benefit manager and a managed
17 care organization; and

18 3. Invoices and unaltered claims files associated with Medicaid
19 pharmacy benefits;

20 (b) Analyze one hundred percent (100%) of invoices or claims submitted for
21 payment by the department or a managed care organization and shall not
22 utilize statistical sampling methods in lieu of analyzing all invoices and
23 claims;

24 (c) Identify and correct errors in pharmacy benefit claims in order to avoid or
25 reduce erroneous overpayments by the department to the state pharmacy
26 benefit manager, either directly or indirectly through a managed care
27 organization;

1 (d) Identify underpayments made by the state pharmacy benefit manager to
2 pharmacies licensed in this state; and

3 (e) Analyze the state pharmacy benefit manager's performance and compliance
4 with:

5 1. The contract between the department and the state pharmacy benefit
6 manager;

7 2. The state pharmacy benefit manager and each managed care
8 organization; and

9 3. KRS 205.5512, 205.5514, 205.5516, and 205.5518.

10 (5) The analysis of claims and the identification of potential errors required by
11 paragraphs (b), (c), and (d) of subsection (4) of this section shall:

12 (a) Occur prior to the due date of each claim or invoice submitted by the state
13 pharmacy benefit manager or within five (5) days of receipt of the claim or
14 invoice, whichever is longer; and

15 (b) Consider at least the following:

16 1. Compliance with all relevant administrative regulations promulgated
17 by the department;

18 2. Compliance with the Medicaid State Plan;

19 3. Compliance with the contract between the department and the state
20 pharmacy benefit manager;

21 4. Compliance with any contract between the state pharmacy benefit
22 manager and a managed care organization; and

23 5. The market competitiveness of payments, including the adequacy of
24 the state pharmacy benefit manager's payments to pharmacies.

25 (6) The department may promulgate administrative regulations necessary to carry
26 out this section.

27 ➔Section 2. Whereas there is urgent need to improve the administration and

1 provision of pharmacy benefits for Medicaid beneficiaries in the Commonwealth, an
2 emergency is declared to exist, and this Act takes effect upon its passage and approval by
3 the Governor or upon its otherwise becoming law.