

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 152
HOUSE BILL 2285

AN ACT

AMENDING SECTION 20-3321, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 25, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTION 44-1751, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 10.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-1753 AND 44-1754; RELATING TO PHARMACY BENEFIT MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-3321, Arizona Revised Statutes, is amended to
3 read:

4 20-3321. Definitions

5 In this ~~article~~ CHAPTER, unless the context otherwise requires:

6 1. "Auditing entity" means any person, company, group or plan
7 working on behalf of or pursuant to a contract with an insurer or pharmacy
8 benefits manager for the purposes of auditing pharmacy drug claims
9 adjudicated by pharmacies.

10 2. "Clerical errors" means a minor recordkeeping or transcribing
11 error, including typographical errors, scrivener's errors or computer
12 errors, in a required electronic or hard copy document, record or
13 prescription order if both of the following criteria are met:

14 (a) The error did not result in actual financial harm to an entity.

15 (b) The error did not involve dispensing an incorrect dose or type
16 of medication or dispensing a prescription drug to the wrong person.

17 3. "Desktop audit" means an audit that is conducted by an auditing
18 entity at a location other than the location of the pharmacist or
19 pharmacy. Desktop audit includes an audit that is performed at the offices
20 of the auditing entity during which the pharmacist or pharmacy provides
21 requested documents for review by hard copy or by microfiche, disk or
22 other electronic media.

23 4. "In-pharmacy audit" means an audit that is conducted by an
24 auditing entity at the physical business address of the pharmacy where the
25 claim was adjudicated.

26 5. "Insurer" means a disability insurer, group disability insurer,
27 blanket disability insurer, health care services organization, hospital
28 service corporation, medical service corporation or hospital and medical
29 service corporation.

30 6. "LIST" MEANS THE LIST OF DRUGS FOR WHICH A PHARMACY BENEFIT
31 MANAGER HAS ESTABLISHED A MAXIMUM ALLOWABLE COST.

32 7. "MAXIMUM ALLOWABLE COST":

33 (a) MEANS THE MAXIMUM AMOUNT THAT A PHARMACY BENEFIT MANAGER WILL
34 REIMBURSE A PHARMACY FOR THE COST OF A MULTISOURCE DRUG.

35 (b) DOES NOT INCLUDE THE DISPENSING FEE FOR THE DRUG.

36 ~~6.~~ 8. "Pharmacist" has the same meaning prescribed in section
37 32-1901.

38 ~~7.~~ 9. "Pharmacy" has the same meaning prescribed in section
39 32-1901.

40 ~~8.~~ 10. "Pharmacy ~~benefits~~ BENEFIT manager" means a person,
41 business or other entity that, pursuant to a contract or under an
42 employment relationship with ~~a carrier~~ AN INSURER or other third-party
43 ~~payer~~ PAYOR, either directly or through an intermediary manages the
44 prescription drug coverage provided by the ~~carrier~~ INSURER or other
45 third-party ~~payer~~ PAYOR, including the processing and payment of claims

1 for prescription drugs, the performance of drug utilization review, the
2 processing of drug prior authorization requests, the adjudication of
3 appeals or grievances related to prescription drug coverage, contracting
4 with network pharmacies and controlling the cost of covered prescription
5 drugs.

6 Sec. 2. Title 20, chapter 25, Arizona Revised Statutes, is amended
7 by adding article 2, to read:

8 ARTICLE 2. PHARMACY BENEFIT MANAGERS

9 20-3331. Pharmacy benefit managers; requirements;
10 applicability

11 A. A PHARMACY BENEFIT MANAGER SHALL DO ALL OF THE FOLLOWING:

12 1. UPDATE THE PRICE AND DRUG INFORMATION FOR EACH LIST THAT THE
13 PHARMACY BENEFIT MANAGER MAINTAINS EVERY SEVEN BUSINESS DAYS.

14 2. AT THE BEGINNING OF THE TERM OF A CONTRACT, ON RENEWAL OF A
15 CONTRACT AND AT LEAST ONCE ANNUALLY DURING THE TERM OF A CONTRACT, MAKE
16 AVAILABLE TO EACH NETWORK PHARMACY THE SOURCES USED TO DETERMINE MAXIMUM
17 ALLOWABLE COST PRICING.

18 3. ESTABLISH A PROCESS BY WHICH A NETWORK PHARMACY MAY APPEAL ITS
19 REIMBURSEMENT FOR A DRUG SUBJECT TO MAXIMUM ALLOWABLE COST PRICING.

20 4. ALLOW A PHARMACY SERVICES ADMINISTRATIVE ORGANIZATION THAT IS
21 CONTRACTED WITH THE PHARMACY BENEFIT MANAGER TO FILE AN APPEAL OF A DRUG
22 ON BEHALF OF THE ORGANIZATION'S CONTRACTED PHARMACIES.

23 B. BEGINNING ON JANUARY 1, 2020, THIS SECTION APPLIES TO ALL NEW
24 AND EXISTING CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A LICENSED
25 PHARMACY.

26 Sec. 3. Section 44-1751, Arizona Revised Statutes, is amended to
27 read:

28 44-1751. Definitions

29 In this article, unless the context otherwise requires:

30 1. "Cost share" means an ~~enrollee's~~ INSURED'S applicable
31 coinsurance, copayment and deductible requirement under a health plan
32 based on the adjudicated claim.

33 2. "Pharmacy ~~benefits~~ BENEFIT manager" has the same meaning
34 prescribed in section 20-3321.

35 3. "PLAN SPONSOR" MEANS AN EMPLOYER OR ORGANIZATION THAT OFFERS A
36 GROUP HEALTH PLAN TO ITS EMPLOYEES OR MEMBERS.

37 Sec. 4. Title 44, chapter 11, article 10.1, Arizona Revised
38 Statutes, is amended by adding sections 44-1753 and 44-1754, to read:

39 44-1753. Prescription medications; ninety-day fill;
40 exceptions

41 A. A PLAN SPONSOR OR PHARMACY BENEFIT MANAGER MAY NOT PROHIBIT A
42 RETAIL PHARMACY IN ITS NETWORK FROM DISPENSING A NINETY-DAY FILL OF A
43 PRESCRIPTION MEDICATION PURSUANT TO ARIZONA STATE BOARD OF PHARMACY RULES
44 AND GUIDANCE IF EITHER:

- 1 1. A NINETY-DAY FILL OF THAT MEDICATION IS ALLOWED BY THE PLAN
2 SPONSOR'S PHARMACY BENEFIT AT ANY RETAIL PHARMACY AND THE RETAIL PHARMACY
3 AGREES TO THE REIMBURSEMENT RATE AND THE CONTRACTUAL REQUIREMENTS REQUIRED
4 BY THE PLAN SPONSOR OR PHARMACY BENEFIT MANAGER.
- 5 2. A NINETY-DAY FILL IS REQUIRED FOR THAT MEDICATION BY THE PLAN
6 SPONSOR'S PHARMACY BENEFIT AND THE RETAIL PHARMACY AGREES TO THE
7 REIMBURSEMENT RATE AND THE CONTRACTUAL REQUIREMENTS REQUIRED BY THE PLAN
8 SPONSOR OR PHARMACY BENEFIT MANAGER.
- 9 B. THIS SECTION DOES NOT APPLY TO:
- 10 1. DISPENSING SCHEDULE II OR III CONTROLLED SUBSTANCES.
- 11 2. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION
12 AND ITS CONTRACTORS AS DEFINED IN SECTION 36-2901 TO THE EXTENT THE
13 SERVICES ARE PROVIDED PURSUANT TO TITLE 36, CHAPTER 29 OR 34.
- 14 44-1754. Delivery of prescription drugs; disclosure;
15 exception
- 16 A. A PLAN SPONSOR OR PHARMACY BENEFIT MANAGER MAY NOT PROHIBIT A
17 RETAIL PHARMACY FROM OFFERING AS AN ANCILLARY SERVICE OF A PHARMACY WITHIN
18 THE TERMS OF THE CONTRACT EITHER OF THE FOLLOWING:
- 19 1. THE LIMITED DELIVERY OF PRESCRIPTION DRUGS BY MAIL OR COMMON
20 CARRIER TO A PATIENT.
- 21 2. THE HAND DELIVERY OF PRESCRIPTION DRUGS TO A PATIENT BY AN
22 EMPLOYEE OR CONTRACTOR OF THE PHARMACY.
- 23 B. A PHARMACY MAY NOT CHARGE THE PLAN SPONSOR OR PHARMACY BENEFIT
24 MANAGER FOR THE DELIVERY OF A PRESCRIPTION TO A PATIENT PURSUANT TO
25 SUBSECTION A OF THIS SECTION UNLESS SPECIFICALLY AGREED ON BY THE PLAN
26 SPONSOR OR PHARMACY BENEFIT MANAGER.
- 27 C. A PHARMACY SHALL DISCLOSE TO THE PATIENT ANY FEE THAT WILL BE
28 CHARGED TO THE PATIENT FOR THE DELIVERY OF A PRESCRIPTION DRUG, INCLUDING
29 THAT THE FEE MAY NOT BE REIMBURSABLE BY THE PLAN SPONSOR OR PHARMACY
30 BENEFIT MANAGER.
- 31 D. THIS SECTION DOES NOT APPLY TO THE ARIZONA HEALTH CARE COST
32 CONTAINMENT SYSTEM ADMINISTRATION AND ITS CONTRACTORS AS DEFINED IN
33 SECTION 36-2901 TO THE EXTENT THE SERVICES ARE PROVIDED PURSUANT TO TITLE
34 36, CHAPTER 29 OR 34.

APPROVED BY THE GOVERNOR APRIL 30, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2019.