

REFERENCE TITLE: pharmacy benefit managers; pharmacy benefits

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

HB 2285

Introduced by
Representative Cobb

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)

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

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

20-3321. Definitions

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

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

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

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

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

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

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

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

6. "LIST" MEANS THE LIST OF DRUGS FOR WHICH A PHARMACY MAY RECEIVE REIMBURSEMENT AND A PHARMACY BENEFIT MANAGER HAS ESTABLISHED A MAXIMUM ALLOWABLE COST.

7. "MAXIMUM ALLOWABLE COST":

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

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

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

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

~~8.~~ 10. "Pharmacy ~~benefits~~ BENEFIT manager" means a person, business or other entity that, pursuant to a contract or under an employment relationship with ~~a carrier~~ AN INSURER or other third-party ~~payer~~ PAYOR, either directly or through an intermediary manages the prescription drug coverage provided by the ~~carrier~~ INSURER or other

third-party ~~payer~~ PAYOR, including the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies and controlling the cost of covered prescription drugs.

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

ARTICLE 2. PHARMACY BENEFIT MANAGERS

20-3331. Pharmacy benefit managers: requirements: applicability

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

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

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

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

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

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

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

44-1751. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

44-1753. Prescription medications: ninety-day fill; exception

A. A PLAN SPONSOR OR PHARMACY BENEFIT MANAGER MAY NOT PROHIBIT A RETAIL PHARMACY IN ITS NETWORK FROM DISPENSING A NINETY-DAY FILL OF A PRESCRIPTION MEDICATION PURSUANT TO ARIZONA STATE BOARD OF PHARMACY RULES 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 DISPENSING SCHEDULE II OR III
10 CONTROLLED SUBSTANCES.

11 44-1754. Delivery of prescription drugs; disclosure;
12 exception

13 A. A PLAN SPONSOR OR PHARMACY BENEFIT MANAGER MAY NOT PROHIBIT A
14 RETAIL PHARMACY FROM OFFERING AS AN ANCILLARY SERVICE OF A PHARMACY WITHIN
15 THE TERMS OF THE CONTRACT EITHER OF THE FOLLOWING:

16 1. THE LIMITED DELIVERY OF PRESCRIPTION DRUGS BY MAIL TO A PATIENT.

17 2. THE HAND DELIVERY OF PRESCRIPTION DRUGS TO A PATIENT BY AN
18 EMPLOYEE OR CONTRACTOR OF THE PHARMACY.

19 B. A PHARMACY MAY NOT CHARGE THE PLAN SPONSOR OR PHARMACY BENEFIT
20 MANAGER FOR THE DELIVERY OF A PRESCRIPTION TO A PATIENT PURSUANT TO
21 SUBSECTION A OF THIS SECTION UNLESS SPECIFICALLY AGREED ON BY THE PLAN
22 SPONSOR OR PHARMACY BENEFIT MANAGER.

23 C. A PHARMACY SHALL DISCLOSE TO THE PATIENT ANY FEE THAT WILL BE
24 CHARGED TO THE PATIENT FOR THE DELIVERY OF A PRESCRIPTION DRUG, INCLUDING
25 THAT THE FEE MAY NOT BE REIMBURSABLE BY THE PLAN SPONSOR OR PHARMACY
26 BENEFIT MANAGER.

27 D. THIS SECTION DOES NOT APPLY TO THE ARIZONA HEALTH CARE COST
28 CONTAINMENT SYSTEM ADMINISTRATION AND ITS CONTRACTORS AS DEFINED IN
29 SECTION 36-2901 TO THE EXTENT THE SERVICES ARE PROVIDED PURSUANT TO TITLE
30 36, CHAPTER 29.