

REFERENCE TITLE: prescription drugs; costs; affordability division

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1533

Introduced by
Senators Burch: Alston, Bravo, Mendez

AN ACT

AMENDING SECTIONS 20-2311 AND 20-3331, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-3335; AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 32; RELATING TO PHARMACY BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-2311, Arizona Revised Statutes, is amended to
3 read:

4 20-2311. Premium rates and rating practices

5 A. The premium rate that an accountable health plan charges during
6 a rating period for a health benefits plan issued to a small employer
7 shall not vary by more than sixty percent from the index rate for health
8 benefits plans involving the same or similar coverage, family size and
9 composition, and geographic area.

10 B. In establishing premium rates for health benefits plans offered
11 to small employers:

12 1. An accountable health plan making adjustments with respect to
13 demographic characteristics shall apply those adjustments consistently
14 across all small employers.

15 2. An accountable health plan may not use a geographic area that is
16 smaller than a county or smaller than an area that includes all areas in
17 which the first three digits of the zip code are identical, whichever is
18 smaller.

19 C. The percentage increase in the premium rate that is charged to a
20 small employer for a new rating period may not exceed the sum of the
21 following:

22 1. The percentage change in the base premium rate.

23 2. Fifteen percentage points.

24 3. Any adjustment due to a change in coverage, family size or
25 composition, geographic area or demographic characteristics.

26 D. At the time an accountable health plan offers a health benefits
27 plan to a small employer, the accountable health plan shall fully disclose
28 to the employer all of the following:

29 1. Rating practices for small employer health benefits plans,
30 including rating practices for different populations and benefit designs.

31 2. The extent to which premium rates for the small employer are
32 established or adjusted based on the actual or expected variation in
33 claims costs or health condition of the employees of the small employer
34 and their dependents.

35 3. The accountable health plan's right to change premium rates, the
36 extent to which premiums can be modified and the factors that affect
37 changes in premium rates.

38 E. Each accountable health plan shall file annually with the
39 director a written statement by a member of the American academy of
40 actuaries or another individual acceptable to the director certifying that
41 based on an examination by the individual, including a review of the
42 appropriate records and of the actuarial assumptions of the accountable
43 health plan and methods used by the accountable health plan in
44 establishing base premium rates, index rates and premium rates for small
45 employer health benefits plans:

1 1. The accountable health plan is in compliance with the applicable
2 provisions of this article.

3 2. The rating methods are actuarially sound.

4 F. Each accountable health plan shall retain a copy of the
5 statement required by subsection E for examination at its principal place
6 of business.

7 G. Each accountable health plan shall annually file with the
8 director for informational purposes the accountable health plan's base
9 premium rates and index rates. On request, the director shall make the
10 base premium rates or the index rates available to the public for
11 inspection.

12 H. This section does not apply if a small employer obtains a health
13 benefits plan that is subject to and complies with 42 United States Code
14 section 300gg.

15 I. WHEN CALCULATING PREMIUMS, AN ACCOUNTABLE HEALTH PLAN SHALL
16 DEMONSTRATE TO THE DEPARTMENT HOW THE PLAN WILL REDUCE CONSUMER COSTS
17 THROUGH MANUFACTURER REBATES AND OTHER CARRIER INCENTIVES THAT ARE
18 RECEIVED BY THE ACCOUNTABLE HEALTH PLAN OR ANY OF THE ACCOUNTABLE HEALTH
19 PLAN'S AFFILIATED OR CONTRACTED PHARMACY BENEFIT MANAGERS.

20 Sec. 2. Section 20-3331, Arizona Revised Statutes, is amended to
21 read:

22 20-3331. Pharmacy benefit managers; requirements;
23 applicability

24 A. A pharmacy benefit manager shall do all of the following:

25 1. Update the price and drug information for each list that the
26 pharmacy benefit manager maintains every seven business days.

27 2. At the beginning of the term of a contract, on renewal of a
28 contract and at least once annually during the term of a contract, make
29 available to each network pharmacy the sources used to determine maximum
30 allowable cost pricing.

31 3. Establish a process by which a network pharmacy may appeal its
32 reimbursement for a drug subject to maximum allowable cost pricing.

33 4. Allow a pharmacy services administrative organization that is
34 contracted with the pharmacy benefit manager to file an appeal of a drug
35 on behalf of the organization's contracted pharmacies.

36 5. BEFORE INCREASING THE PRICE OF A DRUG ABOVE THE RATE OF
37 INFLATION, FILE A PRICE INCREASE REQUEST WITH THE DEPARTMENT ON A FORM
38 PRESCRIBED BY THE DEPARTMENT. THE DIRECTOR OF THE PRESCRIPTION DRUG
39 AFFORDABILITY DIVISION MUST RESPOND WITHIN NINETY DAYS AFTER RECEIVING THE
40 PRICE INCREASE REQUEST AND EITHER APPROVE OR DENY THE REQUEST. THE PRICE
41 INCREASE REQUEST MUST INCLUDE JUSTIFICATION AND DOCUMENTATION TO SUPPORT
42 THE NEED TO INCREASE THE PRICE ABOVE THE RATE OF INFLATION. IF THE
43 DIRECTOR OF THE PRESCRIPTION DRUG AFFORDABILITY DIVISION DENIES THE
44 REQUEST, THE PHARMACY BENEFIT MANAGER MAY CONTACT THE DEPARTMENT WITHIN

1 FIFTEEN DAYS AFTER RECEIVING THE DENIAL AND REQUEST A FORMAL HEARING
2 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

3 6. PROVIDE QUARTERLY REPORTS TO THE DEPARTMENT THAT AGGREGATE THE
4 FOLLOWING INFORMATION, AS APPROPRIATE:

- 5 (a) DRUG MANUFACTURER REBATES.
- 6 (b) FREQUENTLY PRESCRIBED DRUGS.
- 7 (c) MOST EXPENSIVE PRESCRIBED DRUGS.
- 8 (d) ANY OTHER INFORMATION AS DETERMINED BY THE DIRECTOR.

9 B. Beginning on January 1, 2020, this section applies to all new
10 and existing contracts between a pharmacy benefit manager and a licensed
11 pharmacy.

12 Sec. 3. Title 20, chapter 25, article 2, Arizona Revised Statutes,
13 is amended by adding section 20-3335, to read:

14 20-3335. Pharmacy benefit managers; insurers; pricing; audits

15 A. A PHARMACY BENEFIT MANAGER MAY NOT CHARGE MORE TO A CARRIER OR
16 CONSUMER FOR A PRESCRIPTION DRUG THAN THE AMOUNT PAID TO THE PHARMACY FOR
17 THE COST OF FILLING AND DISPENSING THE DRUG.

18 B. NOTWITHSTANDING ANY OTHER LAW, ANY STATE-SPONSORED AND STATE
19 REGULATED HEALTH BENEFITS PLANS AND AFFILIATED PHARMACY BENEFIT MANAGERS
20 SHALL LIMIT PRESCRIPTION DRUG REIMBURSEMENTS TO NOT MORE THAN THE UPPER
21 PAYMENT LIMIT AS ESTABLISHED BY THE PRESCRIPTION DRUG AFFORDABILITY
22 DIVISION.

23 C. HEALTH CARE PROVIDERS WHO DISPENSE AND ADMINISTER PRESCRIPTION
24 DRUGS TO INDIVIDUALS MAY NOT CHARGE MORE THAN THE UPPER PAYMENT LIMIT TO A
25 PATIENT OR ANY THIRD-PARTY PAYER REGARDLESS OF WHETHER THE HEALTH BENEFITS
26 PLAN CHOOSES TO REIMBURSE THE HEALTH CARE PROVIDER ABOVE THE UPPER PAYMENT
27 LIMIT AS ESTABLISHED BY THE PRESCRIPTION DRUG AFFORDABILITY DIVISION.

28 D. A PHARMACY BENEFIT MANAGER WHO IS SUBJECT TO SUBSECTIONS A, B
29 AND C OF THIS SECTION SHALL SUBMIT RECORDS OF THE PHARMACY BENEFIT
30 MANAGER'S ACTUAL EXPENSES AND BILLED PHARMACY AMOUNTS TO THE PRESCRIPTION
31 DRUG AFFORDABILITY DIVISION FOR AUDITING.

32 E. THIS ARTICLE DOES NOT APPLY TO HEALTH BENEFITS PLANS THAT ARE
33 NOT REGULATED BY THIS STATE.

34 Sec. 4. Title 20, Arizona Revised Statutes, is amended by adding
35 chapter 32, to read:

36 CHAPTER 32

37 PRESCRIPTION DRUG AFFORDABILITY DIVISION

38 ARTICLE 1. GENERAL PROVISIONS

39 20-3701. Definition of division

40 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "DIVISION"
41 MEANS THE PRESCRIPTION DRUG AFFORDABILITY DIVISION OF THE DEPARTMENT OF
42 INSURANCE AND FINANCIAL INSTITUTIONS.

43 20-3702. Prescription drug affordability division; powers

44 A. THE PRESCRIPTION DRUG AFFORDABILITY DIVISION IS ESTABLISHED IN
45 THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

- 1 B. THE DIVISION SHALL:
- 2 1. PROMOTE, STUDY AND RECOMMEND CONSUMER COST SAVING MECHANISMS FOR
- 3 PRESCRIPTION DRUGS.
- 4 2. APPROVE OR DENY PRESCRIPTION DRUG PRICE INCREASE REQUESTS THAT
- 5 ARE SUBMITTED TO THE DIVISION PURSUANT TO SECTION 20-3331.
- 6 3. ENSURE THAT PROPOSED HEALTH INSURANCE PREMIUM RATES THAT ARE
- 7 CHARGED TO CONSUMERS ACCURATELY REFLECT THE ACTUARIAL VALUE OF THE
- 8 PRESCRIPTION DRUG OR RELATED PRODUCTS, INCLUDING ANY PHARMACY BENEFIT
- 9 MANAGER REBATES, ANY CARRIER INCENTIVES OR OTHER COST SAVINGS.
- 10 4. SET THE UPPER PAYMENT LIMITS FOR SPECIFIED PRESCRIPTION DRUGS,
- 11 AS DETERMINED BY THE DEPARTMENT.
- 12 C. THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL
- 13 INSTITUTIONS SHALL APPOINT THE DIRECTOR OF THE DIVISION.