

CHAPTER 2018-91

Committee Substitute for Committee Substitute for House Bill No. 351

An act relating to prescription drug pricing transparency; amending s. 465.0244, F.S.; requiring pharmacists to inform customers of certain generically equivalent drug products and whether cost-sharing obligations to such customers exceed the retail price of the prescription; repealing s. 465.1862, F.S., relating to pharmacy benefit manager contracts; creating s. 624.490, F.S.; defining the term “pharmacy benefit manager”; requiring registration of pharmacy benefit managers with the Office of Insurance Regulation; providing registration requirements; requiring the registrant to report changes to certain information by a specified date; requiring the office to issue a registration certificate upon receipt of a completed registration form; providing for expiration of a registration certificate; requiring rulemaking; creating ss. 627.64741, 627.6572, and 641.314, F.S.; defining the terms “maximum allowable cost” and “pharmacy benefit manager”; requiring certain terms in health insurer or health maintenance organization contracts with pharmacy benefit managers; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 465.0244, Florida Statutes, is amended to read:

465.0244 Information disclosure.—

(1) Every pharmacy shall make available on its website a hyperlink to the health information that is disseminated by the Agency for Health Care Administration pursuant to s. 408.05(3) and shall place in the area where customers receive filled prescriptions notice that such information is available electronically and the address of its Internet website.

(2) In addition to the requirements of s. 465.025, a pharmacist or her or his authorized employee must inform customers of a less expensive, generically equivalent drug product for her or his prescription and whether the cost-sharing obligation to the customer exceeds the retail price of the prescription in the absence of prescription drug coverage.

Section 2. Section 465.1862, Florida Statutes, is repealed.

Section 3. Section 624.490, Florida Statutes, is created to read:

624.490 Registration of pharmacy benefit managers.—

(1) As used in this section, the term “pharmacy benefit manager” means a person or entity doing business in this state which contracts to administer prescription drug benefits on behalf of a health insurer or a health maintenance organization to residents of this state.

(2) Effective January 1, 2019, to conduct business in this state, a pharmacy benefit manager must register with the office. To initially register or renew a registration, a pharmacy benefit manager shall submit:

(a) A nonrefundable fee not to exceed \$500.

(b) A copy of the registrant's corporate charter, articles of incorporation, or other charter document.

(c) A completed registration form adopted by the commission containing:

1. The name and address of the registrant.

2. The name, address, and official position of each officer and director of the registrant.

(3) The registrant shall report any change in information required by subsection (2) to the office in writing within 60 days after the change occurs.

(4) Upon receipt of a completed registration form, the required documents, and the registration fee, the office shall issue a registration certificate. The certificate may be in paper or electronic form, and shall clearly indicate the expiration date of the registration. Registration certificates are nontransferable.

(5) A registration certificate is valid for 2 years after its date of issue. The commission shall adopt by rule an initial registration fee not to exceed \$500 and a registration renewal fee not to exceed \$500, both of which shall be nonrefundable. Total fees may not exceed the cost of administering this section.

(6) The commission shall adopt rules necessary to implement this section.

Section 4. Section 627.64741, Florida Statutes, is created to read:

627.64741 Pharmacy benefit manager contracts.—

(1) As used in this section, the term:

(a) "Maximum allowable cost" means the per-unit amount that a pharmacy benefit manager reimburses a pharmacist for a prescription drug, excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.

(b) "Pharmacy benefit manager" means a person or entity doing business in this state which contracts to administer or manage prescription drug benefits on behalf of a health insurer to residents of this state.

(2) A contract between a health insurer and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount; or

(b) The retail price of the drug in the absence of prescription drug coverage.

(5) This section applies to contracts entered into or renewed on or after July 1, 2018.

Section 5. Section 627.6572, Florida Statutes, is created to read:

627.6572 Pharmacy benefit manager contracts.—

(1) As used in this section, the term:

(a) "Maximum allowable cost" means the per-unit amount that a pharmacy benefit manager reimburses a pharmacist for a prescription drug, excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.

(b) "Pharmacy benefit manager" means a person or entity doing business in this state which contracts to administer or manage prescription drug benefits on behalf of a health insurer to residents of this state.

(2) A contract between a health insurer and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount; or

(b) The retail price of the drug in the absence of prescription drug coverage.

(5) This section applies to contracts entered into or renewed on or after July 1, 2018.

Section 6. Section 641.314, Florida Statutes, is created to read:

641.314 Pharmacy benefit manager contracts.—

(1) As used in this section, the term:

(a) "Maximum allowable cost" means the per-unit amount that a pharmacy benefit manager reimburses a pharmacist for a prescription drug, excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.

(b) "Pharmacy benefit manager" means a person or entity doing business in this state which contracts to administer or manage prescription drug benefits on behalf of a health maintenance organization to residents of this state.

(2) A contract between a health maintenance organization and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

(3) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing

obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(4) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring a subscriber to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount; or

(b) The retail price of the drug in the absence of prescription drug coverage.

(5) This section applies to contracts entered into or renewed on or after July 1, 2018.

Section 7. This act shall take effect July 1, 2018.

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.