

PHARMACY BENEFIT MANAGER LICENSURE AND REGULATION ACT (EXCERPT)
Act 11 of 2022

***** 550.839.new THIS NEW SECTION IS EFFECTIVE JANUARY 1, 2024 *****

550.839.new Retail pharmacies; contractual restrictions and limitations; use of untrue, deceptive, or misleading advertisements; reversal and resubmission of claims; termination of pharmacy from pharmacy benefit manager network; retaliation prohibited; "personal representative" defined.

Sec. 29. (1) A contract between a retail pharmacy and a pharmacy benefit manager or plan sponsor must not prohibit the retail pharmacy from offering either of the following as an ancillary service of the retail pharmacy:

(a) The delivery of a prescription drug by mail or common carrier to a patient or personal representative on request of the patient or personal representative if the request is made before the drug is delivered.

(b) The delivery of a prescription to a patient or personal representative by an employee or contractor of the retail pharmacy.

(2) Except as otherwise provided in a contract described in subsection (1), the retail pharmacy shall not charge a plan sponsor or pharmacy benefit manager for the delivery service described in subsection (1).

(3) If a retail pharmacy provides a delivery service described in subsection (1) to a patient, the retail pharmacy must disclose both of the following to the patient or personal representative:

(a) Any fee charged to the patient for the delivery of a prescription drug.

(b) The plan sponsor or pharmacy benefit manager may not reimburse the patient for the fee described in subdivision (a).

(4) Except as otherwise provided in a contract between a mail-order pharmacy or specialty pharmacy and a carrier, health plan, or pharmacy benefit manager, the carrier, health plan, or pharmacy benefit manager shall not require pharmacist or pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and state requirements to obtain reimbursement for a covered drug.

(5) A pharmacy benefit manager shall not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

(6) A pharmacy benefit manager shall not reverse and resubmit the claim of a network pharmacy:

(a) Without prior and proper notification to the network pharmacy.

(b) Without just cause or attempt to first reconcile the claim with the pharmacy.

(c) More than 90 days after the claim was first affirmatively adjudicated.

(7) The termination of a pharmacy from a pharmacy benefit manager network must not release the retail pharmacy benefit manager from the obligation to make any payment due to the pharmacy for an affirmatively adjudicated claim unless payments are withheld because of an investigation relating to insurance fraud.

(8) A carrier, health plan, or pharmacy benefit manager shall not retaliate against a pharmacist or pharmacy based on the pharmacist's or pharmacy's exercise of any right or remedy under this act. Retaliation prohibited by this subsection includes any of the following:

(a) Terminating or refusing to renew a contract with the pharmacist or pharmacy.

(b) Subjecting the pharmacist or pharmacy to increased audits.

(c) Failing to promptly pay the pharmacist or pharmacy any money owed by the pharmacy benefit manager to the pharmacist or pharmacy.

(9) This section does not prohibit the use of remote pharmacies, secure locker systems, or other types of pickup stations if such services are otherwise permitted by law.

(10) The provisions of this act may not be waived, voided, or nullified by contract.

(11) As used in this section, "personal representative" means an individual who has authority to act on behalf of another individual in making decisions related to health care as described in 45 CFR 164.502(g).

History: 2022, Act 11, Eff. Jan. 1, 2024.