

House Bill 413

By: Representatives Harbin of the 122nd, Stephens of the 164th, Parrish of the 158th, Harden of the 148th, and Broadrick of the 4th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to
2 regulation and licensure of pharmacy benefits managers, so as to define "maximum allowable
3 cost"; to impose certain requirements on pharmacy benefits managers who use maximum
4 allowable cost pricing; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and
9 licensure of pharmacy benefits managers, is amended by revising Code Section 33-64-1,
10 relating to definitions, as follows:

11 "33-64-1.

12 As used in this chapter, the term:

13 (1) 'Business entity' means a corporation, association, partnership, sole proprietorship,
14 limited liability company, limited liability partnership, or other legal entity.

15 (2) 'Commissioner' means the Commissioner of Insurance.

16 (3) 'Covered entity' means an employer, labor union, or other group of persons organized
17 in this state that provides health coverage to covered individuals who are employed or
18 reside in this state.

19 (4) 'Covered individual' means a member, participant, enrollee, contract holder, policy
20 holder, or beneficiary of a covered entity who is provided health coverage by a covered
21 entity.

22 (5) 'Health system' means a hospital or any other facility or entity owned, operated, or
23 leased by a hospital and a long-term care home.

24 (6) 'Maximum allowable cost' means the per unit amount that a pharmacy benefits
25 manager reimburses a pharmacist for a prescription drug, excluding dispensing fees and
26 copayments, coinsurance, or other cost-sharing charges, if any.

27 ~~(6)~~(7) 'Pharmacy benefits management' means the service provided to a health plan or
 28 covered entity, directly or through another entity, including the procurement of
 29 prescription drugs to be dispensed to patients, or the administration or management of
 30 prescription drug benefits, including, but not limited to, any of the following:

- 31 (A) Mail service pharmacy;
- 32 (B) Claims processing, retail network management, or payment of claims to
 33 pharmacies for dispensing prescription drugs;
- 34 (C) Clinical or other formulary or preferred drug list development or management;
- 35 (D) Negotiation or administration of rebates, discounts, payment differentials, or other
 36 incentives for the inclusion of particular prescription drugs in a particular category or
 37 to promote the purchase of particular prescription drugs;
- 38 (E) Patient compliance, therapeutic intervention, or generic substitution programs; and
- 39 (F) Disease management.

40 ~~(7)~~(8) 'Pharmacy benefits manager' means a person, business entity, or other entity that
 41 performs pharmacy benefits management. The term includes a person or entity acting for
 42 a pharmacy benefits manager in a contractual or employment relationship in the
 43 performance of pharmacy benefits management for a covered entity. The term does not
 44 include services provided by pharmacies operating under a hospital pharmacy license.
 45 The term also does not include health systems while providing pharmacy services for
 46 their patients, employees, or beneficiaries, for indigent care, or for the provision of drugs
 47 for outpatient procedures."

48 SECTION 2.

49 Said chapter is further amended by adding a new Code section to read as follows:

50 "33-64-9.

51 (a) Any pharmacy benefits manager that uses maximum allowable cost pricing or
 52 maximum allowable cost list pricing to determine reimbursement for in-network or
 53 out-of-network pharmacists and other licensed dispensing providers shall:

54 (1) Beginning on January 1 of each calendar year, include in contracts or agreements
 55 with pharmacists or other licensed dispensing providers the maximum allowable cost
 56 methodology, basis of the methodology, and sources used to determine the maximum
 57 allowable cost for each drug;

58 (2) Provide updates on the pricing information to pharmacies, pharmacists, and other
 59 licensed dispensing providers every seven calendar days;

60 (3) Disclose in the contract with the covered individual or covered entity, as applicable:

61 (A) The basis and methodology used to determine maximum allowable cost pricing;

- 62 (B) Whether the pharmacy benefits manager utilizes a maximum allowable cost list for
 63 drugs dispensed by mail; and
- 64 (C) Whether it is using identical maximum allowable cost lists for all in-network
 65 pharmacies and, if multiple maximum allowable cost lists are utilized, any difference
 66 between the amount paid to any pharmacy and the amount charged to the covered
 67 individual or covered entity;
- 68 (4) Notify the covered individual or covered entity, as applicable:
- 69 (A) Of any material changes or amendments to the maximum allowable cost plan
 70 within 15 days of such changes; and
- 71 (B) If the pharmacy benefits manager begins to use a maximum allowable cost list for
 72 drugs dispensed by mail, not more than 90 days nor less than 21 days before
 73 implementing such practice; and
- 74 (5) Establish or maintain a reasonable process for:
- 75 (A) The timely elimination or modification of products on the maximum allowable cost
 76 list to reflect general market conditions; and
- 77 (B) Administrative appeals to allow a pharmacist or other licensed dispensing provider
 78 to contest the listed maximum allowable cost rate, and such procedure shall:
- 79 (i) Require a pharmacy benefits manager to respond in writing within 15 calendar
 80 days to a pharmacy, pharmacist, or other licensed dispensing provider who has
 81 contested a maximum allowable cost rate in writing; and
- 82 (ii) Retroactively make adjustments for all pharmacies, pharmacists, and licensed
 83 dispensing providers in the pharmacy benefits managers' networks if an appealing
 84 person is successful in his or her appeal.
- 85 (b) Before a drug or product requiring a prescription can be placed on a maximum
 86 allowable cost list, the drug or product shall:
- 87 (1) Have at least three or more nationally available, therapeutically equivalent, multiple
 88 source drugs;
- 89 (2) Have a significant cost difference between manufacturers;
- 90 (3) Be listed in the federal Food and Drug Administration's 'Orange Book' as 'A' rated
 91 or as therapeutically and pharmaceutically equivalent; and
- 92 (4) Be available for purchase without limitations by all pharmacies in this state from
 93 licensed national or regional wholesalers and not be obsolete or unavailable for a period
 94 of 14 calendar days or more.
- 95 (c) This Code section shall apply to all covered contracts or agreements entered into on or
 96 after January 1, 2014."

97

SECTION 3.

98 All laws and parts of laws in conflict with this Act are repealed.