

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Pharmacy Benefit Manager Contracts

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### Overview

This bill regulates the terms of contracts between pharmacy benefit managers (PBMs) and pharmacies and pharmacists. The bill specifies when PBMs can make use of maximum allowable cost pricing, sets notice and information requirements, and allows pharmacies and pharmacists to contest a rate. The bill also requires PBMs to allow any licensed pharmacy and pharmacist to fill specialty drug prescriptions, as long as specified conditions are met. The bill requires PBMs to allow community/outpatient pharmacies and long-term care pharmacies to fill mail order or extended days supply prescriptions, as long as specified conditions are met. The bill also sets requirements for the sale, lease, or rental of utilization, claims, and other patient data by PBMs, and the transmission of certain utilization or claims data from a PBM to pharmacies owned by the PBM.

### Section

- 1 **Definitions.** Adds § 151.71. Defines the following terms: community/outpatient pharmacy, covered individual, extended days supply, health care provider, health plan, health plan company, long-term care pharmacy, mail-order pharmacy, managed care organization, maximum allowable cost, nationally available, pharmacy, pharmacy benefit manager, plan sponsor, specialty drug, and therapeutically equivalent.
- 2 **Maximum allowable cost pricing.** Adds § 151.72. Sets criteria for the use of maximum allowable cost pricing by a PBM, requires notice and disclosure to pharmacies, and requires a procedure for pharmacies to contest maximum allowable cost pricing and rates.

**Subd. 1. Limits on use of maximum allowable cost pricing.** (a) Prohibits a PBM from placing a prescription drug on a maximum allowable cost pricing index or

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creating a maximum allowable cost rate for a drug, until after the six-month period of generic exclusivity, and only if the drug has three or more nationally available and therapeutically equivalent drugs, including the brand product.

(b) Requires a PBM to discontinue the use of maximum allowable cost for a drug in a timely manner, if the criterion related to the number of available drugs cannot be met.

### **Subd. 2. Notice requirements for use of maximum allowable cost pricing.**

Requires a PBM to disclose to pharmacies under contract information on the methodology and sources used to establish a maximum allowable cost pricing index or rate, and to provide pharmacies with the pricing index and rates at least once every seven calendar days, in a readily accessible and searchable format.

**Subd. 3. Contesting a rate.** Requires PBMs to establish a procedure for a pharmacy to contest a maximum allowable cost pricing index or rate, and specifies requirements for this procedure.

Provides that the section is effective August 1, 2014, and applies to PBM contracts with pharmacies and pharmacists entered into or renewed on or after that date.

- 3 Specialty drugs.** Adds § 151.73. Allows PBMs to designate certain drugs as specialty drugs, and requires PBMs to allow covered individuals to fill prescriptions for specialty drugs at any pharmacy, if specified conditions are met.

**Subd. 1. Designation of specialty drugs.** Allows a PBM to designate certain prescription drugs as specialty drugs on a formulary.

**Subd. 2. Filling specialty drug prescriptions.** If a PBM designates certain drugs as specialty drugs, requires the PBM to allow a covered individual to fill the prescription at any willing pharmacy, if the pharmacy or pharmacist: (1) has the specialty drug in inventory or has ready access to the drug; (2) can comply with handling, patient support, and other requirements related to the drug; and (3) accepts the same rate that the PBM applies to other pharmacies and pharmacists for filling a prescription for the specialty drug.

Provides that the section is effective August 1, 2014, and applies to PBM contracts with pharmacies and pharmacists entered into or renewed on or after that date.

- 4 Mail order or extended days supply prescriptions.** Adds § 151.74. Requires PBMs to permit covered individuals to fill prescriptions at any pharmacy willing to comply with the requirements of a plan's mail order or extended days supply network. Prohibits cost-sharing and pharmacy reimbursement from varying with pharmacy type.

**Subd. 1. Filling prescriptions.** Requires PBMs under contract with, or under the control of, a plan sponsor to permit a covered individual to fill a prescription at any pharmacy willing to meet the rate, terms, and conditions of the plan's mail order or extended days supply network.

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**Subd. 2. Cost-sharing.** Prohibits a PBM from imposing cost-sharing or other requirements, on a covered individual who fills a prescription at a community/outpatient pharmacy or long-term care pharmacy that has accepted the terms of the mail order or extended days supply network, that are different from the requirements imposed on covered individuals who fill prescriptions at a mail-order pharmacy.

**Subd. 3. Pharmacy reimbursement.** Requires a PBM to use the same pricing benchmarks, indices, and formulas when reimbursing pharmacies under this section, regardless of pharmacy type.

Provides that the section is effective August 1, 2014, and applies to PBM contracts with pharmacies and pharmacists entered into or renewed on or after that date.

**5 Patient data.** Adds § 151.75. Sets notification and other requirements related to a PBM's use of utilization, claims, and other patient data.

**Subd. 1. Requirement.** Requires a PBM to adhere to the criteria specified in this section when handling personally identifiable utilization and claims data or other sensitive patient data.

**Subd. 2. Notification.** Requires a PBM to provide 30-day's notice to plan sponsors, before selling, leasing, or renting utilization or claims data for covered individuals, and to provide the plan sponsor with specified information. Prohibits a PBM from selling, leasing, or renting the data without plan sponsor approval.

**Subd. 3. Opt out for individuals.** Requires a PBM to allow each covered individual to opt out of sharing data on that individual.

**Subd. 4. Data transmission to pharmacies.** Prohibits a PBM from transmitting any personally identifiable utilization or claims data to a pharmacy owned by the PBM, unless the patient has voluntarily elected to fill a prescription at that pharmacy.

**Subd. 5. Clinical use.** States that nothing in this section is intended to limit the sharing of data between health care providers for treatment purposes.

Provides that the section is effective August 1, 2014, and applies to PBM contracts with pharmacies and pharmacists entered into or renewed on or after that date.

**6 Applicability.** Adds § 151.76. States that sections 151.71 to 151.75 do not apply to the medical assistance and MinnesotaCare programs.