

SENATE FILE NO. SF0067

Pharmacy benefits management.

Sponsored by: Senator(s) Ross, Burns, Landen and Sessions
and Representative(s) Buchanan, Gingery and
Millin

A BILL

for

1 AN ACT relating to health insurance; providing for the
2 regulation of pharmacy benefit managers as specified;
3 requiring annual registration with the insurance
4 commissioner; requiring rulemaking as specified; providing
5 for penalties; providing definitions; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 26-3-501 through 26-3-504 are created
11 to read:

12

13

ARTICLE 5

14

PHARMACY BENEFIT MANAGERS

15

1 **26-3-501. Annual registration required; fees;**
2 **disposition of fees.**

3

4 (a) Any pharmacy benefit manager that does business
5 in this state shall register annually with the commissioner
6 and pay an annual fee established by the commissioner in
7 accordance with the following:

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9 (i) Fees shall be established by rule or
10 regulation promulgated in accordance with the Wyoming
11 Administrative Procedure Act;

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13 (ii) Fees shall be established in an amount to
14 ensure that, to the extent practicable, the total revenue
15 generated from the fees collected approximates, but does
16 not exceed, the direct and indirect costs of administering
17 the regulatory provisions required for pharmacy benefit
18 managers under this article;

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20 (iii) The commissioner shall maintain records
21 sufficient to support the fees charged.

22

1 (b) Fees collected by the commissioner under this
2 section shall be deposited in the state treasury and
3 credited as provided in W.S. 26-2-205(c).

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5 **26-3-502. Definitions.**

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7 (a) As used in this article:

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9 (i) "Covered entity" means a nonprofit hospital
10 or medical service organization, insurer, health coverage
11 plan or health maintenance organization or an employer,
12 labor union or other group of persons organized in the
13 state that provides health coverage to covered individuals
14 who are employed or reside in the state. "Covered entity"
15 does not include a health plan that provides coverage only
16 for accidental injury, specified disease, hospital
17 indemnity, medicare supplement, disability income, long-
18 term care or other limited benefit health insurance
19 policies and contracts;

20

21 (ii) "Covered individual" means a member,
22 participant, enrollee, contract holder or policy holder or
23 beneficiary of a covered entity who is provided health care
24 coverage by the covered entity and includes a dependent or

1 other individual provided health care coverage through a
2 policy, contract or plan for a covered individual;

3

4 (iii) "Pharmacy benefits management" means the
5 administration of prescription drug benefits provided by a
6 covered entity for the benefit of covered individuals;

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8 (iv) "Pharmacy benefits manager" means a person,
9 business or other entity that performs pharmacy benefits
10 management, including a person or entity acting for a
11 pharmacy benefits manager in a contractual or employment
12 relationship in the performance of pharmacy benefits
13 management for a covered entity.

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15 **26-3-503. Pharmacy benefits managers; authorized**
16 **activities and disclosures; prohibition against mandating**
17 **use of mail order pharmacies.**

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19 (a) A pharmacy benefits manager shall:

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21 (i) Perform its duties exercising good faith and
22 fair dealing toward the covered entity;

23

1 (ii) Notify the covered entity of the
2 availability of administrative services only contracts to
3 manage prescriptions;

4
5 (iii) Disclose to the covered entity all
6 financial terms and arrangements for remuneration of any
7 kind that apply between the pharmacy benefits manager and
8 any prescription drug manufacturer or labeler, including
9 formulary management and drug substitution programs,
10 educational support, claims processing and pharmacy network
11 fees that are charged from retail pharmacies and data sales
12 fees. A pharmacy benefits manager disclosing information
13 under this paragraph may designate that material as
14 confidential. Information designated as confidential by a
15 pharmacy benefits manager and disclosed to a covered entity
16 under this paragraph may not be disclosed by the covered
17 entity to any person without the consent of the pharmacy
18 benefits manager, except that disclosure under this
19 paragraph may be made under a court order issued in this
20 state;

21
22 (iv) Disclose to the covered entity any
23 agreement to sell prescription drug data, including data

1 concerning the prescribing practices of the health care
2 providers in the state;

3

4 (v) Disclose to the covered entity, if the
5 pharmacy benefits manager makes a substitution for a
6 prescribed drug as authorized under the Wyoming Generic
7 Drug Substitution Act, W.S. 33-24-146 et seq., the cost of
8 both the prescribed and the substituted drugs and any
9 benefit or payment directly or indirectly accruing to the
10 pharmacy benefits manager as a result of the substitution;

11

12 (vi) Notify the covered entity in writing of any
13 activity, policy or practice of the pharmacy benefits
14 manager that directly or indirectly presents any conflict
15 of interest with the duties imposed by this section,
16 including discriminatory pricing procedures that favor the
17 use of mail order pharmacies over retail pharmacies.

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19 (b) A pharmacy benefits manager shall not require a
20 covered individual to use a mail order pharmacy.

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22 **26-3-504. Penalties for violations.**

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1 Any pharmacy benefits manager or covered entity violating
2 the provisions of this article may be subject to penalties
3 as provided in W.S. 26-1-107.

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5 **Section 2.** This act is effective July 1, 2010.

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(END)