

ACT 175

H.B. NO. 252

A Bill for an Act Relating to Pharmacy Benefit Managers.

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

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended by adding a new section to part VI to be appropriately designated and to read as follows:

“§328- Pharmacy benefit manager; maximum allowable cost. (a) A pharmacy benefit manager that reimburses a contracting pharmacy for a drug on a maximum allowable cost basis shall comply with the requirements of this section.

(b) The pharmacy benefit manager shall include the following in the contract information with a contracting pharmacy:

- (1) Information identifying any national drug pricing compendia; or
- (2) Other data sources for the maximum allowable cost list.

(c) The pharmacy benefit manager shall make available to a contracting pharmacy, upon request, the most up-to-date maximum allowable cost price or prices used by the pharmacy benefit manager for patients served by the pharmacy in a readily accessible, secure, and usable web-based or other comparable format.

(d) A drug shall not be included on a maximum allowable cost list or reimbursed on a maximum allowable cost basis unless all of the following apply:

- (1) The drug is listed as “A” or “B” rated in the most recent version of the Orange Book or has a rating of “NR”, “NA”, or similar rating by a nationally recognized reference;
- (2) The drug is generally available for purchase in this State from a national or regional wholesaler; and
- (3) The drug is not obsolete.

(e) The pharmacy benefit manager shall review and make necessary adjustments to the maximum allowable cost of each drug on a maximum allowable cost list at least once every seven days using the most recent data sources available, and shall apply the updated maximum allowable cost list beginning that same day to reimburse the contracted pharmacy until the pharmacy benefit manager next updates the maximum allowable cost list in accordance with this section.

(f) The pharmacy benefit manager shall have a clearly defined process for a contracting pharmacy to appeal the maximum allowable cost for a drug on a maximum allowable cost list that complies with all of the following:

(1) A contracting pharmacy may base its appeal on one or more of the following:

(A) The maximum allowable cost for a drug is below the cost at which the drug is available for purchase by similarly situated pharmacies in this State from a national or regional wholesaler; or

(B) The drug does not meet the requirements of subsection (d);

(2) A contracting pharmacy shall be provided no less than fourteen business days following receipt of payment for a claim to file the appeal with the pharmacy benefit manager;

(3) The pharmacy benefit manager shall make a final determination on the contracting pharmacy's appeal no later than fourteen business days after the pharmacy benefit manager's receipt of the appeal;

(4) If the maximum allowable cost is upheld on appeal, the pharmacy benefit manager shall provide to the contracting pharmacy the reason therefor and the national drug code of an equivalent drug that may be purchased by a similarly situated pharmacy at a price that is equal to or less than the maximum allowable cost of the drug that is the subject of the appeal; and

(5) If the maximum allowable cost is not upheld on appeal, the pharmacy benefit manager shall adjust, for the appealing contracting pharmacy, the maximum allowable cost of the drug that is the subject of the appeal, within one calendar day of the date of the decision on the appeal and allow the contracting pharmacy to reverse and rebill the appealed claim.

(g) A contracting pharmacy shall not disclose to any third party the maximum allowable cost list and any related information it receives, either directly from a pharmacy benefit manager or through a pharmacy services administrative organization or similar entity with which the pharmacy has a contract to provide administrative services for that pharmacy."

SECTION 2. Section 328-91, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Maximum allowable cost" means the maximum amount that a pharmacy benefit manager shall reimburse a pharmacy for the cost of a drug.

"Maximum allowable cost list" means a list of drugs for which a maximum allowable cost has been established by a pharmacy benefit manager.

"Obsolete" means a drug that may be listed in a national drug pricing compendia but cannot be dispensed based on the expiration date of the last lot manufactured."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2015.
(Approved June 30, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.