

House Bill 2253

Sponsored by Representative WALLAN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This act makes it a condition of licensing that PBMs need to act in a patient's best interest and tells DCBS to make rules. (Flesch Readability Score: 66.1).

Requires pharmacy benefit managers to act as fiduciaries to enrollees when negotiating drug prices and tells the Department of Consumer and Business Services to adopt rules explaining the fiduciary duty requirements and to establish a complaint process for reporting breaches of fiduciary duty.

A BILL FOR AN ACT

1
2 Relating to pharmacy benefit managers; amending ORS 735.536.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 735.536, as amended by section 7, chapter 87, Oregon Laws 2024, is amended
5 to read:

6 735.536. (1) As used in this section, "out-of-pocket cost" means the amount paid by an enrollee
7 under the enrollee's coverage, including deductibles, copayments, coinsurance or other expenses as
8 prescribed by the Department of Consumer and Business Services by rule.

9 (2) A pharmacy benefit manager licensed under ORS 735.532:

10 (a) May not require a prescription to be filled or refilled by a mail order pharmacy as a condi-
11 tion for reimbursing the cost of the drug.

12 (b) Except as provided in paragraph (c) of this subsection, may require a prescription for a
13 specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement
14 of the cost of a drug.

15 (c) Shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy
16 that is a long term care pharmacy.

17 (d)(A) Shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients
18 as an ancillary service.

19 (B) Is not required to reimburse a delivery fee charged by a pharmacy for a delivery described
20 in subparagraph (A) of this paragraph unless the fee is specified in the contract between the phar-
21 macy benefit manager and the pharmacy.

22 (e) May not require a patient signature as proof of delivery of a mailed or shipped prescription
23 drug if the network pharmacy:

24 (A)(i) Maintains a mailing or shipping log signed by a representative of the pharmacy; or

25 (ii) Maintains each notification of delivery provided by the United States Postal Service or a
26 package delivery service; and

27 (B) Is responsible for the cost of mailing, shipping or delivering a replacement for a drug that
28 was mailed or shipped but not received by the enrollee.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) May not penalize a network pharmacy by imposing charges or fees, requiring contract
2 amendments, canceling or terminating contracts or demanding recoupment or otherwise retaliate
3 against a network pharmacy for:

4 (A) Informing an enrollee of the difference between the out-of-pocket cost to the enrollee to
5 purchase a prescription drug using the enrollee's pharmacy benefit and the pharmacy's usual and
6 customary charge for the prescription drug;

7 (B) Filing an appeal;

8 (C) Filing a complaint against the pharmacy benefit manager with the Department of Consumer
9 and Business Services;

10 (D) Engaging in the legislative process; or

11 (E) Challenging the pharmacy benefit manager's practices or agreements.

12 (g) May not charge a fee to a pharmacy for submitting claims or for the adjudication of claims.

13 **(h) Shall act as a fiduciary on behalf of enrollees when negotiating the price of pre-**
14 **scription drugs. The Department of Consumer and Business Services shall adopt rules ex-**
15 **plaining the requirements of the fiduciary duty and shall establish a complaint process that**
16 **allows pharmacy benefit managers to be reported for a breach of fiduciary duty.**

17 (3) The Department of Consumer and Business Services may adopt rules to carry out the pro-
18 visions of this section.

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