

The Senate Committee offered the following substitute to SB 103:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and licensure of pharmacy benefits managers, so as to authorize the Commissioner of Insurance to promulgate certain rules and regulations; to prohibit pharmacy benefits managers from requiring the use of mail-order pharmacies under certain conditions; to provide for exceptions; to provide for certain prohibitions; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and licensure of pharmacy benefits managers, is amended by revising Code Section 33-64-7, relating to commissioner not authorized to extend rules and regulations and commissioner authorized to enforce provisions of chapter, as follows:

"33-64-7.

The Commissioner may not enlarge upon or extend the specific provisions of this chapter through any act, rule, or regulation; provided, however, that the Commissioner is authorized to enforce any specific provision of this chapter and may promulgate rules and regulations to effectuate the specific provisions of this chapter."

SECTION 2.

Said chapter is further amended by adding new Code sections to read as follows:

"33-64-10.

(a) When administering claims on behalf of group or blanket accident and sickness insurers subject to Chapter 30 of this title, a pharmacy benefits manager shall administer claims in compliance with Code Section 33-30-4.3 and shall not require insureds to use a mail-order pharmaceutical distributor including a mail-order pharmacy.

(b) Code Section 33-30-4.3 shall apply to individual accident and sickness policies issued pursuant to Chapter 29 of this title and, when administering claims on behalf of individual accident and sickness insurers subject to Chapter 29 of this title, a pharmacy benefits manager shall administer claims in compliance with Code Section 33-30-4.3 and shall not require insureds to use a mail-order pharmaceutical distributor including a mail-order pharmacy.

(c) This Code section shall not apply to:

(1) A care management organization, as defined in Chapter 21A of this title;

(2) The Department of Community Health, as defined in Chapter 2 of Title 31;

(3) The State Health Benefit Plan under Article 1 of Chapter 18 of Title 45; or

(4) Any licensed group model health maintenance organization with an exclusive medical group contract and which operates its own pharmacies licensed under Code Section 26-4-110.1.

33-64-11.

(a) A pharmacy benefits manager shall be proscribed from:

(1) Prohibiting a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available;

(2) Prohibiting a pharmacist or pharmacy from offering and providing store direct delivery services to an insured as an ancillary service of the pharmacy;

(3) Charging or collecting from an insured a copayment that exceeds the total submitted charges by the network pharmacy for which the pharmacy is paid;

(4) Charging or holding a pharmacist or pharmacy responsible for a fee relating to the adjudication of a claim;

(5) Recouping funds from a pharmacy in connection with claims for which the pharmacy has already been paid without first complying with the requirements set forth in Code Section 26-4-118, unless such recoupment is otherwise permitted or required by law; and

(6) Penalizing or retaliating against a pharmacist or pharmacy for exercising rights under this chapter or Code Section 26-4-118.

(b) To the extent that any provision of this Code section is inconsistent or conflicts with applicable federal law, rule, or regulation, such applicable federal law, rule, or regulation shall apply.

(c) This Code section shall not apply to:

SECTION 3.

This Act shall become effective on July 1, 2017, and shall apply to all contracts issued, delivered, or issued for delivery in this state on and after such date.

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