

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2527
100TH GENERAL ASSEMBLY

5528H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to prescription drug costs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be
2 known as section 376.2027, to read as follows:

376.2027. 1. As used in this section, the following terms mean:

- 2 **(1) "Defined cost-sharing", a deductible payment or coinsurance amount imposed**
3 **on a covered individual for a covered prescription drug under the enrollee's health benefit**
4 **plan;**
5 **(2) "Drug", the same meaning as is ascribed to such term in section 376.1350;**
6 **(3) "Enrollee", the same meaning as is ascribed to such term in section 376.1350;**
7 **(4) "Health benefit plan", the same meaning as is ascribed to such term in section**
8 **376.1350;**
9 **(5) "Health carrier", the same meaning as is ascribed to such term in section**
10 **376.1350;**
11 **(6) "Pharmacy", the same meaning as is ascribed to such term in section 338.210;**
12 **(7) "Pharmacy benefits manager", the same meaning as is ascribed to such term**
13 **in section 376.388;**
14 **(8) "Prescription insulin drug", a drug that contains insulin and is used to control**
15 **blood glucose levels to treat diabetes, except that such term shall not include an insulin**
16 **drug that is administered to a patient intravenously;**
17 **(9) "Rebate", any discount, negotiated price concession, or other payment or**
18 **amount, including a fee or other administrative cost, provided by a pharmaceutical**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 manufacturer, pharmacy, or health plan, directly or indirectly, to an entity to sell, provide,
20 pay, or reimburse a pharmacy or other entity in the state in connection with the dispensing
21 or administration of a prescription drug on behalf of itself or another entity;

22 (10) "Trade secret", the same meaning as is ascribed to such term in section
23 417.4523.

24 2. An enrollee's defined cost-sharing for each prescription insulin drug shall be
25 calculated at the point of sale based on a price that is reduced by an amount equal to at
26 least one hundred percent of all rebates received, or to be received, in connection with the
27 dispensing or administration of the drug.

28 3. Nothing in this section shall preclude a health carrier from decreasing a covered
29 individual's defined cost-sharing by an amount greater than that required under
30 subsection 2 of this section.

31 4. In complying with the provisions of this section, no health carrier or its agents
32 shall be required to publish or otherwise reveal information regarding the actual amount
33 of rebates a health carrier receives on a product, manufacturer, or pharmacy-specific
34 basis. Such information shall be protected as a trade secret, shall not be a public record
35 under chapter 610, and shall not be disclosed directly or indirectly. A health carrier shall
36 impose the confidentiality protections of this section on any vendor or other third party
37 that performs health care or administrative services on behalf of the health carrier and
38 which may receive or have access to rebate information.

39 5. No entity subject to the jurisdiction of this state shall act as a pharmacy benefits
40 manager without a license issued by the department. The department shall establish by
41 rule the application process and license fee for pharmacy benefits managers.

42 6. The department may cause a complaint to be filed with the administrative
43 hearing commission as provided in chapter 621 against any holder of a license issued under
44 this section for:

45 (1) Violation of the laws or regulations of any state or of the United States, where
46 the offense is reasonably related to the qualifications, functions, or duties of a pharmacy
47 benefit manager, including but not limited to where an essential element of the offense is
48 fraud, dishonesty, or an act of violence, or where the offense involves moral turpitude, or
49 where the offense involves failure to comply with a requirement of this chapter, whether
50 or not sentence or penalty is imposed;

51 (2) Use of fraud, deception, misrepresentation, or bribery for any reason;

52 (3) Obtaining or attempting to obtain any fee, charge, tuition, or other
53 compensation by fraud, deception, or misrepresentation;

54 **(4) Incompetence, misconduct, gross negligence, or dishonesty in the performance**
55 **of the functions or duties of a pharmacy benefits manager or other regulated profession**
56 **or activity; or**

57 **(5) Disciplinary action taken against the holder of a license or other right to**
58 **practice as a pharmacy benefits manager or other regulated profession.**

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60 **After the filing of such complaint, the proceedings shall be conducted in accordance with**
61 **the provisions of chapter 621. Upon a finding by the administrative hearing commission**
62 **that grounds provided in this subsection for disciplinary action are met, the department**
63 **may, singly or in combination, censure or place the person named in the complaint on**
64 **probation with such terms and conditions as the department deems appropriate for a**
65 **period not to exceed five years, or may suspend, for a period not to exceed three years, or**
66 **revoke the license, certificate, or permit. An individual whose license has been revoked**
67 **shall wait at least one year from the date of revocation to apply for relicensure.**
68 **Relicensure shall be at the discretion of the department.**

69 **7. A pharmacy benefits manager that has contracted with a health carrier, health**
70 **benefit plan, the state, or a political subdivision of the state to provide pharmacy benefit**
71 **management services for such an entity shall owe a fiduciary duty to that entity, and shall**
72 **discharge that duty in accordance with federal and state law.**

73 **8. If any provision of this section or the application thereof to anyone or to any**
74 **circumstance is held invalid, the remainder of this section and the application of such**
75 **provisions to others or other circumstances shall not be affected thereby.**

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