

SENATE BILL NO. 211

INTRODUCED BY E. BUTTREY

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PROCEDURES RELATED TO MAXIMUM ALLOWABLE COST LISTS FOR PRESCRIPTION DRUGS; REQUIRING DISCLOSURE OF PRICING SOURCES; AND PROVIDING AN APPEAL PROCESS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Maximum allowable cost list" means the list of drugs used by a pharmacy benefit manager that sets the maximum cost on which reimbursement to a network pharmacy or pharmacist is based.

(2) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy pursuant to Title 37, chapter 7.

(3) "Pharmacy" means an established location, either physical or electronic, that is licensed by the board of pharmacy pursuant to Title 37, chapter 7, and that has entered into a network contract with a pharmacy benefit manager or plan sponsor.

(4) "Pharmacy benefit manager" means a person who contracts with pharmacies on behalf of an insurer, third-party administrator, or plan sponsor to process claims for prescription drugs, provide retail network management for pharmacies or pharmacists, and pay pharmacies or pharmacists for prescription drugs.

**NEW SECTION. Section 2. Maximum allowable cost list -- limitations on drugs.** Before a pharmacy benefit manager places or continues a drug on a maximum allowable cost list, the drug:

(1) must be listed as "A" or "B" rated in the most recent version of the United States food and drug administration's approved drug products with therapeutic equivalence evaluations or have an "NR" or "NA" rating by a nationally recognized reference;

(2) must be available for purchase by pharmacies in this state from national or regional wholesalers; and

(3) may not be obsolete.



1            **NEW SECTION. Section 3. Maximum allowable cost list -- price formulation, updating, and**  
2 **disclosure -- exceptions.** (1) At the time it enters into a contract with a pharmacy and subsequently upon  
3 request, a plan sponsor or pharmacy benefit manager shall provide the pharmacy with the sources used to  
4 determine the pricing for the maximum allowable cost list.

5            (2) A plan sponsor or pharmacy benefit manager shall:

6            (a) review and update the price information for each drug on the maximum allowable cost list at least  
7 once every 10 calendar days to reflect any modification of pricing;

8            (b) establish a process for eliminating products from the maximum allowable cost list or modifying the  
9 prices in the maximum allowable cost list in a timely manner to remain consistent with pricing changes and  
10 product availability in the marketplace; and

11           (c) provide a process for each pharmacy to readily access the maximum allowable cost list specific to  
12 the pharmacy in a searchable and usable format.

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14           **NEW SECTION. Section 4. Maximum allowable cost -- appeals process.** (1) In contracting with a  
15 pharmacy, a plan sponsor or pharmacy benefit manager shall:

16           (a) provide a procedure by which a pharmacy may appeal the price of a drug or drugs on the maximum  
17 allowable cost list;

18           (b) provide a telephone number at which a network pharmacy may contact the pharmacy benefit  
19 manager to discuss the status of the pharmacy's appeal; and

20           (c) respond to an appeal no later than 10 calendar days after the date the appeal is made.

21           (2) If the final determination is a denial of the pharmacy's appeal, the pharmacy benefit manager shall  
22 state the reason for the denial and provide the national drug code of an equivalent drug that is available for  
23 purchase by pharmacies in this state from national or regional wholesalers at a price that is equal to or less than  
24 the maximum allowable cost for that drug.

25           (3) If a pharmacy's appeal is determined to be valid by the pharmacy benefit manager, the pharmacy  
26 benefit manager shall:

27           (a) make an adjustment in the drug price effective on the date the appeal is resolved;

28           (b) make the adjustment applicable to all similarly situated network pharmacy providers as determined  
29 by the plan sponsor or the pharmacy benefit manager, as appropriate; and

30           (c) permit the appealing pharmacy to reverse and rebill the claim in question, using the dates of the

1 original claim or claims.

2 (4) A pharmacy benefit manager shall make price adjustments to all similarly situated pharmacies within  
3 3 days.

4 (5) A pharmacy shall file its appeal within 10 calendar days of its submission of the initial claim for  
5 reimbursement.

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7 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be codified  
8 as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to  
9 [sections 1 through 4].

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