



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:

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) permit the appealing pharmacy to reverse and rebill the claim in question, using the dates of the original claim or claims.

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

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

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

- END -

I hereby certify that the within bill,
SB 0211, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 211
INTRODUCED BY E. BUTTREY

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