

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0329.01 Kristen Forrestal x4217

HOUSE BILL 14-1213

HOUSE SPONSORSHIP

Kraft-Tharp, Joshi, Vigil

SENATE SPONSORSHIP

Crowder,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PHARMACY BENEFIT MANAGER MAXIMUM ALLOWABLE
102 COST PRICING REQUIREMENTS FOR PRESCRIPTION DRUGS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The bill requires a pharmacy benefit manager (PBM) to include the basis for determining maximum allowable cost pricing in each contract between a pharmacy benefit manager and a pharmacy, update the pricing information at least every 7 days. The bill also requires a PBM to maintain a procedure to eliminate products from the list of drugs subject

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

to maximum allowable cost pricing.

In order for a prescription drug to be placed on a maximum allowable cost list, the bill requires a PBM to ensure that the drug meets specific requirements.

The bill requires each contract between a PBM and a pharmacy to include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-37-102, **add** (13)
3 as follows:

4 **25-37-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (13) "PHARMACY BENEFIT MANAGER" MEANS AN ENTITY DOING
7 BUSINESS IN THIS STATE THAT CONTRACTS TO ADMINISTER OR MANAGE
8 PRESCRIPTION DRUG BENEFITS ON BEHALF OF ANY CARRIER THAT
9 PROVIDES PRESCRIPTION DRUG BENEFITS TO RESIDENTS OF THIS STATE.
10 "PHARMACY BENEFIT MANAGER" DOES NOT INCLUDE THE DEPARTMENT OF
11 HEALTH CARE POLICY AND FINANCING CREATED IN SECTION 25.5-1-104,
12 C.R.S.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 25-37-103.5 as
14 follows:

15 **25-37-103.5. Pharmacy benefit managers - contracts with**
16 **pharmacies - maximum allowable cost pricing.** (1) (a) IN EACH
17 CONTRACT BETWEEN A PHARMACY BENEFIT MANAGER AND A PHARMACY,
18 THE PHARMACY BENEFIT MANAGER SHALL INCLUDE THE SOURCES USED TO
19 DETERMINE MAXIMUM ALLOWABLE COST PRICING. THE PHARMACY
20 BENEFIT MANAGER SHALL UPDATE THE PRICING INFORMATION AT LEAST
21 EVERY SEVEN DAYS AND PROVIDE A MEANS BY WHICH CONTRACTED
22 PHARMACIES MAY PROMPTLY REVIEW PRICING UPDATES IN A FORMAT THAT

1 IS READILY AVAILABLE AND ACCESSIBLE.

2 (b) A PHARMACY BENEFIT MANAGER SHALL MAINTAIN A
3 PROCEDURE TO ELIMINATE PRODUCTS FROM THE LIST OF DRUGS SUBJECT
4 TO MAXIMUM ALLOWABLE COST PRICING IN A TIMELY MANNER IN ORDER
5 TO REMAIN CONSISTENT WITH PRICING CHANGES IN THE MARKETPLACE.

6 (2) IN ORDER TO PLACE A PRESCRIPTION DRUG ON A MAXIMUM
7 ALLOWABLE COST LIST, A PHARMACY BENEFIT MANAGER SHALL ENSURE
8 THAT:

9 (a) THE DRUG IS LISTED AS "A" OR "B" RATED IN THE MOST RECENT
10 VERSION OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION'S
11 APPROVED DRUG PRODUCTS WITH THERAPEUTIC EQUIVALENCE
12 EVALUATIONS, ALSO KNOWN AS THE ORANGE BOOK, AND HAS AN "NR" OR
13 "NA" RATING OR SIMILAR RATING BY A NATIONALLY RECOGNIZED
14 REFERENCE; AND

15 (b) THE DRUG IS GENERALLY AVAILABLE FOR PURCHASE BY
16 PHARMACIES IN THIS STATE FROM A NATIONAL OR REGIONAL WHOLESALER
17 AND IS NOT OBSOLETE.

18 (3) EACH CONTRACT BETWEEN A PHARMACY BENEFIT MANAGER
19 AND A PHARMACY MUST INCLUDE A PROCESS TO APPEAL, INVESTIGATE,
20 AND RESOLVE DISPUTES REGARDING MAXIMUM ALLOWABLE COST PRICING
21 THAT INCLUDES:

22 (a) A TWENTY-ONE-DAY LIMIT ON THE RIGHT TO APPEAL
23 FOLLOWING THE INITIAL CLAIM;

24 (b) A REQUIREMENT THAT THE APPEAL BE INVESTIGATED AND
25 RESOLVED WITHIN TWENTY-ONE DAYS AFTER THE APPEAL;

26 (c) A TELEPHONE NUMBER AT WHICH THE PHARMACY MAY
27 CONTACT THE PHARMACY BENEFIT MANAGER TO SPEAK TO A PERSON

1 RESPONSIBLE FOR PROCESSING APPEALS;

2 (d) A REQUIREMENT THAT A PHARMACY BENEFIT MANAGER
3 PROVIDE A REASON FOR ANY APPEAL DENIAL AND THE IDENTIFICATION OF
4 THE NATIONAL DRUG CODE OF A DRUG THAT MAY BE PURCHASED BY THE
5 PHARMACY AT A PRICE AT OR BELOW THE BENCHMARK PRICE AS
6 DETERMINED BY THE PHARMACY BENEFIT MANAGER; AND

7 (e) A REQUIREMENT THAT A PHARMACY BENEFIT MANAGER MAKE
8 AN ADJUSTMENT TO A DATE NO LATER THAN ONE DAY AFTER THE DATE OF
9 DETERMINATION. THIS REQUIREMENT DOES NOT PROHIBIT A PHARMACY
10 BENEFIT MANAGER FROM RETROACTIVELY ADJUSTING A CLAIM FOR THE
11 APPEALING PHARMACY OR FOR ANOTHER SIMILARLY SITUATED PHARMACY.

12 **SECTION 3. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect January 1, 2015; except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within the ninety-day period after final adjournment of the general
17 assembly, then the act, item, section, or part will not take effect unless
18 approved by the people at the general election to be held in November
19 2014 and, in such case, will take effect on January 1, 2015, or on the date
20 of the official declaration of the vote thereon by the governor, whichever
21 is later.

22 (2) This act applies to contracts issued, renewed, or amended on
23 or after the applicable effective date of this act.