

ALASKA STATE LEGISLATURE

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North to the Future

Senator Cathy Giessel
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SB 38 Pharmacy Benefit Managers Sectional Analysis CS for SB 38(L&C) vsn D

Section 1. Adds a new section, Article 10, concerning Pharmacy Benefits Managers.

** PBM means “pharmacy benefit manager” in this sectional

Sec. 21.27.901. Registry of pharmacy benefit managers; scope of business practice. Requires that PBMs register as third party administrators under 21.27.630 and describes the parameters under which they may contract with an insurer or network pharmacies, set the cost of multi-source generic drugs and allows for an appeal process.

Sec. 21.27.905. Renewal of registration. Establishes a bi-annual renewal of a registration fee for a PBM as set by the director.

Sec. 21.27.910. Pharmacy audit procedural requirements. Describes the procedural and time requirements required of the PBMs for an audit and defines who conducts an audit and what records can may be provided by the pharmacy.

Sec. 21.27.915. Overpayment or underpayment. Indicates that a PBM shall base a finding of overpayment or underpayment on the actual payment and not a projection of patients served by similar circumstances. It also designates the dispensing fee limitations.

Sec. 21.27.920. Recoupment. Establishes how a PBM shall base the recoupment of overpayments from a pharmacy. It prohibits extrapolation to calculate recoupment or penalties.

Sec. 21.27.925. Pharmacy audit reports. Establishes time frames for when preliminary and final audit reports shall be delivered to a pharmacy and the response time for any discrepancies found in the audits.

Sec. 21.27.930. Pharmacy audit appeal; future repayment. A written appeals process shall be established by a pharmacy benefits manager. It also states that future repayment of disputed funds or other penalties imposed on a pharmacy shall occur only when all appeals have been exhausted.

Sec. 21.27.935. Fraudulent activity. Defines what may not be considered fraud by the PBM. Defines “fraudulent activity.”

Sec. 21.27.940. Pharmacy audits; restrictions. Adopts restrictions on the requirements of the entire Section 1 when applied to an audit in which intentional or suspected fraud is demonstrated in a review of the claims data. In addition, the requirements do not apply to any claims paid for under the medical assistance program (Medicaid) found in AS 47.07.

Sec. 21.27.945. Drug pricing list; procedural requirements. The methodology and sources used to determine the drug pricing list (the “MAC” list) will be provided to each network pharmacy at the beginning of their contract term and updated weekly by the PBM. Basic contact information shall also be provided by the PBM.

Sec. 21.27.950. Multi-source generic drug appeal. Establishes a process by which a network pharmacy may appeal the reimbursement for a multi-source generic drug and procedures if their appeal is denied. It also sets the limitations on the PBM and the insurance division director as to how many days they have to resolve an appeal or a request for review.

Sec. 21.27.955. Definitions. Defines all selective wording as used in Section 1.

Section 2. Adds a new section on Applicability as it applies to audits of pharmacies as conducted by PBMs.

Section 3. Adds a new section granting authority to Division of Insurance for adopting regulations.

Section 4. Adds a new section stating the Revisor’s instructions for statute reference changes.

Section 5. Effective date clause for Bill section 3 is immediate.

Section 6. Effective date clause for this Act is July 1, 2019.

4-4-18 jmc