

March 1, 2024

Alaska State Senate
The Honorable Jesse Bjorkman, Chairman
The Honorable Click Bishop, Vice Chair
Senate Labor and Commerce
State Capitol
Juneau, AK 99811

Subject: Opposition to SB 121– Relating to Pharmacies/Pharmacists/Benefit Managers

Dear Members of the Alaska State Senate:

We, the undersigned employers, employer associations, and labor representatives, are writing to express our strong opposition to SB 121. We have significant concerns that need to be addressed. Certain aspects of this legislation would have a negative impact on the benefits we provide and increase the cost of those benefits, both for us and the members we cover. Therefore, we request that this bill not be progressed any further during the 2024 legislative session.

Our opposition stems from the following concerns:

- As a Plan Sponsor, we are concerned that this bill is intended to apply even to self-funded plans covering government employees. Imposing Alaska specific pharmacy benefit design rules will result in our members receiving different benefits, simply because of where they work. It also creates an additional significant administrative burden to implement our pharmacy benefits, undermining our intent to provide equal benefits to all of our members.
 - ERISA preemption allows multi-state businesses to offer affordable, uniform, and equitable health coverage, including prescription drugs, for their beneficiaries regardless of where they live
- Several provisions of the bill will have a direct impact on self-funded health plans including Union Taft-Hartley and government sponsored health plans which will result in higher costs for the health plans and their participants
 - Opening the network to 'Any Willing Provider' reduces the volume of sales for all network participants, resulting in smaller discounts
 - The lack of quality metrics is of concern. This bill could include pharmacies that have been sanctioned by the Board of Pharmacy or have been banned by Medicaid or Medicare
 - This bill allows any pharmacy to presume they meet the requirements of a Specialty Pharmacy, which may put patient safety at risk
 - Specialty focuses on higher cost and high touch medications, usually for patients with complex health conditions
 - Specialty drugs may require special handling, storage and administration
 - Specialty drugs requires specific training given the higher risk for complications and side effects
 - PBM's only contract with Specialty Pharmacies that have been accredited by national organizations such as the Joint Commission and URAC
 - Allowing any pharmacy to dispense highly complex specialty medications would lead to lower quality of care and patient safety

issues. Given the sensitive nature of these medications, patient safety must be paramount. Unfortunately, not all hospitals and clinics are accredited.

- This bill requires health plans to reimburse clinicians for drugs at the cost charged despite the availability of the same medications at significantly lower costs. The higher drug prices charged by hospitals and clinics is what forced health plans to consider alternative methods. Licensed specialty pharmacies purchase medicines requiring clinician administration from the very same sources clinics and hospitals do. In fact, they are safe, reliable and effective, just at a much more reasonable cost to the health plan. Requiring health plans to pay the high prices charged by clinics and hospitals will ultimately result in higher costs for patients.
- This bill contains a number of concerning provisions by placing a ban on cost saving tools:
 - It completely deprives plans of any ability to establish a pharmacy network benefit design. Plans pass on savings from these programs to its members through lower premiums and more flexible benefit designs. These benefits are collectively bargained.
 - It prohibits plans from utilizing limited, preferred or exclusive pharmacy networks that incentivize members to use the lowest cost, high quality providers. Plans should be allowed to encourage members to choose lower cost, higher quality options and reward them for doing so with favorable out of pocket costs.
 - This bill deprives patients of any ability access to lower drug prices negotiated through these types of pharmacy networks
 - This bill eliminates the ability for PBM's to properly screen and credential network pharmacies. Credentialing is an important part of ensuring the quality and safety of networks, meaning the standard of care is met, including verification that all of its providers are properly licensed and in good standing. Credentialing is a standard term and condition for participation in PBM networks. Limiting denials of admission related to credentialing findings could have significant health and safety consequences for plan participants, as credentialing is the primary way PBM's screen for pharmacies likely to engage in fraud, waste and abuse. PBM's ability to enforce certain credentialing requirements is a critical component in maintaining network integrity while mitigating financial risk to plans and is typically a requirement of the PBM-client agreement.
 - The bill prohibits the use of mandatory mail order, generally used for maintenance medication, which results in improved access and cost savings to both payers and patients. Mail order pharmacies are able to purchase drugs in bulk quantities, smaller independent pharmacies cannot. The savings generated from these bulk purchases are passed on to patients in the form of lower premiums and/or copays. Imposing this restriction will increase costs for patients, not lower them.
- The bill regulates what the PBM can do regardless of the status of the plan as insured or self-insured, adding an unsustainable increase in plan administrative cost.
- SB 121 does not preserve the collectively bargained benefits our employers and employees rely on. The escalating costs our employers will face are overlooked and not adequately addressed.

- The bill language does not provide any solutions to the escalating costs that our employees and members will face at the pharmacy. The proposed regulation mandates a minimum pharmacy reimbursement to pharmacies, as well as an additional professional dispensing fee of \$12-\$20 per prescription.
- SB 121 mandates plan design options for self-insured ERISA plans that are specifically reserved to the plan sponsors and fiduciaries by the Employee Retirement Income Security Act of 1974, and as such are preempted.

Based on these concerns, we strongly urge that SB 121 not progress any further until a dialogue is opened that genuinely reflects the needs and challenges faced by employers, employees and Plan Sponsors.

Our priority remains the safeguarding of affordable, high-quality healthcare for all. We are committed to working alongside you to develop solutions that are both practical and beneficial for the diverse community we serve.

Thank you for your attention to this matter, and we look forward to engaging in productive discussions moving forward.

Sincerely,

Alaska Teamster-Employer Welfare Fund

Alaska UFCW 1496

Teamsters Local 959

UA Local 367