

LEGISLATIVE BILL 316

Approved by the Governor April 24, 2019

Introduced by Kolterman, 24; Briese, 41.

A BILL FOR AN ACT relating to pharmacy; to provide duties for pharmacists and contracted pharmacies regarding disclosure of cost, price, or copayment of prescription drugs; to prohibit insurers from requiring excessive payments as prescribed; to define terms; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section:

(a) Contracted pharmacy means a pharmacy located in this state that participates either in the network of a pharmacy benefit manager or in a health care or pharmacy benefits management plan through a direct contract or through a contract with a pharmacy services administration organization, a group purchasing organization, or another contracting agent;

(b) Covered entity means (i) a nonprofit hospital or medical services corporation, an insurer, a third-party payor, a managed care company, or a health maintenance organization, (ii) a health program administered by the state in the capacity of provider of health insurance coverage, or (iii) an employer, a labor union, or any other group of persons organized in the state that provides health insurance coverage;

(c) Covered individual means a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity who is provided health insurance coverage by the covered entity and includes a dependent or other person provided health insurance coverage through a policy, contract, or plan for a covered individual;

(d)(i) Insurer means any person providing life insurance, sickness and accident insurance, workers' compensation insurance, or annuities in this state.

(ii) Insurer includes an authorized insurance company, a prepaid hospital or medical care plan, a managed care plan, a health maintenance organization, any other person providing a plan of insurance subject to state insurance regulation, and an employer who is approved by the Nebraska Workers' Compensation Court as a self-covered entity;

(e) Pharmacist has the same meaning as in section 38-2832;

(f) Pharmacy has the same meaning as in section 71-425;

(g) Pharmacy benefit manager means a person or an entity that performs pharmacy benefits management services for a covered entity and includes any other person or entity acting on behalf of a pharmacy benefit manager pursuant to a contractual or employment relationship;

(h) Pharmacy benefits management means the administration or management of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefit manager and the covered entity; and

(i) Prescription drug means a prescription drug or device or legend drug or device as defined in section 38-2841.

(2) A pharmacist or contracted pharmacy shall not be prohibited from or subject to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual or a covered individual's caregiver. A pharmacy benefit manager shall not prohibit or inhibit a pharmacist or contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual or a covered individual's caregiver.

(3) An insurer that offers a health plan which covers prescription drugs shall not require a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The covered individual's copayment, deductible, or coinsurance for such prescription drug; or

(b) The amount any individual would pay for such prescription drug if that individual paid in cash.

Sec. 2. Since an emergency exists, this act takes effect when passed and approved according to law.