

HOUSE BILL No. 2631

By Committee on Health and Human Services

2-11

1 AN ACT concerning insurance; relating to pharmacy benefits managers;
2 the federal 340B drug pricing program; prohibiting disparate treatment
3 of certain pharmacies and pharmaceutical services providers.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "340B covered entity" means an entity participating in the federal
8 340B drug pricing program authorized by 42 U.S.C. § 256b, including
9 such entity's pharmacy or pharmacies, or any pharmacy or pharmacies
10 contracted for the purpose of dispensing drugs purchased through such
11 program.

12 (2) "Covered drug" means the same as defined in 42 U.S.C. § 256b(b)
13 (2) as in effect on July 1, 2020.

14 (3) "Covered person" means the same as defined in K.S.A. 2019
15 Supp. 40-3822, and amendments thereto.

16 (4) "PBM Affiliate" means a pharmacy, pharmacist or pharmacy
17 technician that directly or indirectly through one or more intermediaries
18 owns or controls, is owned or controlled by or is under common ownership
19 or control with a pharmacy benefits manager.

20 (5) "Pharmacy benefits manager" or "PBM" means the same as
21 defined in K.S.A. 2019 Supp. 40-3822, and amendments thereto.

22 (b) (1) A pharmacy benefits manager shall not disparately treat any
23 pharmacy or pharmaceutical services provider by imposing or requiring
24 terms of such pharmacy or pharmaceutical services provider that differ
25 from those imposed or required of other pharmacies or pharmaceutical
26 services providers based solely on such pharmacy's or pharmaceutical
27 services provider's eligibility or designation as a 340B covered entity.

28 (2) Disparate terms include, but are not limited to:

29 (A) The exclusion of 340B-eligible or 340B covered entities from
30 provider networks;

31 (B) reimbursing 340B-eligible or 340B covered entities less than the
32 amount that the prescription drug coverage reimburses a PBM affiliate for
33 providing the same pharmacist services; and

34 (C) assessing any fee, chargeback, participation requirement or other
35 adjustment upon a 340B covered entity solely on the basis that the 340B
36 covered entity participates in the federal 340B drug pricing program.

1 (c) A PBM shall not discriminate against a 340B covered entity in a
2 manner that prevents or interferes with a covered person's choice to
3 receive a covered drug from the 340B covered entity.

4 (d) A PBM shall not collect from or require a pharmacy or pharmacist
5 to collect from a covered person any cost-share amount for a prescription
6 drug at the point of sale that exceeds the lesser of:

7 (1) The contracted co-payment amount;

8 (2) the amount the covered person would pay for a prescription drug
9 if such covered person did not have prescription drug coverage; or

10 (3) the contracted amount for the drug.

11 (e) The commissioner of insurance shall adopt all necessary rules and
12 regulations to oversee, administer and enforce the provisions of this
13 section, including penalties for non-compliance. Such rules and
14 regulations shall be adopted not later than July 1, 2021.

15 (f) This section shall be a part of and supplemental to article 38 of
16 chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

17 Sec. 2. This act shall take effect and be in force from and after its
18 publication in the Kansas register.