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SB 1382: pharmacy benefit managers; certificate requirements

Sponsor: Senator Shamp, LD 29
Caucus & COW

Overview

Effective January 1, 2025, requires all pharmacy benefit managers to obtain a certificate of authority to operate and prescribes the Department of Insurance and Financial Institution's role, responsibilities and authority.

History

The Department of Insurance and Financial Institutions (DIFI) oversees insurance companies and related professionals through its adopted administrative rules and guidelines conferred by the power and authority of Arizona law. Statute allows the Director of DIFI (Director) to conduct examinations and investigations of insurance matters, including those for adjusters, producers and brokers and other regulated individuals. The Director also establishes guidelines for insurers of home health services prescribed by a physician or registered nurse practitioner, and skilled professional care in a home comparable to that provided in a hospital as outlined. [\(A.R.S. § 20-142\)](#).

A pharmacy benefit manager (PBM) is a person, business or other entity that, under a contract or an employment relationship with an insurer or third-party payor, either directly or through an intermediary manages the prescription drug coverage provided by the insurer or other third-party payor, including: 1) the processing and payment of claims for prescription drugs; 2) the performance of drug utilization review; 3) the processing of drug prior authorization requests; 4) the adjudication of appeals or grievances related to prescription drug coverage; 5) contracting with network pharmacies; and 6) controlling the cost of covered prescription drugs [\(A.R.S. § 20-3321\)](#)

Statute prohibits a PBM from: 1) limiting a pharmacist or pharmacy from providing an insured individual information on the amount of the insured's cost share for the insured's prescription drug and the clinical efficacy of a more affordable alternative; 2) penalizing a pharmacy or pharmacist for disclosing such information to an insured; and 3) requiring a pharmacist or pharmacy to charge or collect from an insured a copayment that exceeds the total submitted charged by the network pharmacy [\(A.R.S. § 44-1752\)](#)

Provisions

1. Requires a valid certificate of authority to operate as a PBM and makes the certificate of authority renewable on a biennial basis. (Sec. 1)
2. Describes the required information that a PBM must submit to the Director to obtain the certificate of authority to operate. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input checked="" type="checkbox"/> Fiscal Note
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3. Outlines information in the application, including pertinent identifying information of the PBM, copy of the basic organizational documents with articles of incorporation, bylaws, articles of association and trade name certificate and any related documents and amendments. (Sec. 1)
4. Prescribes the necessary information that must be submitted by an out-of-state PBM, including an in-state appointed director, copy of the required power of attorney, and authority to accept service of process in Arizona. (Sec. 1)
5. Requires a signed certificate of good standing, along with a description of the PBM and its services, facilities, personnel and a document confirming the business practices and contracts comply with state laws. (Sec. 1)
6. Authorizes the Director to prescribe an application fee. (Sec. 1)
7. Requires the Director to issue a certificate of authority to operate to a PBM within 90 days after receipt of a completed and qualified application and related fee. (Sec. 1)
8. Requires the Director to state specific reasons for any denial and provides 60 days for the PBM to remedy any stated deficiencies. (Sec. 1)
9. Prescribes that the PBM must file a notice of modification with the Director within 30 days after any material modifications to the application. (Sec. 1)
10. Authorizes the Director to refuse to issue a certificate of authority to a PBM who had a license or certificate of authority revoked for cause in another state. (Sec. 1)
11. Allows the Director to issue a cease-and-desist order, or to deny, suspend or revoke a certificate of authority after notice and opportunity for hearing as outlined. (Sec. 1)
12. Permits the Director to allow a PBM to operate a maximum 120 days or more to ensure minimal disruptions to the continuity of care if the certificate of authority is suspended or restricted. (Sec. 1)
13. Prescribes the monthly civil penalties when a PBM's certificate of authority is suspended or restricted for unintentional and intentional violations as follows:
 - a) Unintentional violation: no more than \$1,000 for each violation and maximum aggregate of \$10,000 in any 6-month period; and
 - b) Intentional violation: no more than \$5,000 for each violation and maximum aggregate of \$50,000 in any 6-month period. (Sec. 1)
14. Authorizes the Director to revoke a certificate of authority if the PBM has been operating under a suspended certificate of authority for more than 120 days. (Sec. 1)
15. Prescribes the same rights and notices for hearings for PBMs as others entitled under the Administrative Procedures Act. (Sec. 1)
16. Allows the Director to investigate PBM officers, directors and owners. (Sec. 1)
17. Outlines requirements for renewals of certificates of authority and deems them expired by operation of law pursuant to administrative rules if not timely renewed. (Sec. 1)
18. Requires the PBM to comply with Arizona laws and rules on the effective date of the certificate of authority if a PBM and insurer enter into a contractual agreement. (Sec. 1)
19. Stipulates that the PBM must comply with records retention rules, the duties and appeals process of a utilization review agent and permits the Director to examine and review books and records as outlined. (Sec. 1)

20. Authorizes the Director to adopt and implement administrative rules, records retention schedules and deems records, books documentation and other data obtained by DIFI as confidential and proprietary information, which is not considered public records. (Sec. 1)
21. Contains an effective date of January 1, 2025. (Sec. 1)

Amendments

Committee on Regulatory Affairs

1. For out-of-state PBMs, requires the name of the agent in Arizona for service of process.
2. Applies the provisions only to PBMs performing services for a health plan in Arizona.
3. Stipulates the provisions do not apply to a workers' compensation insurer.