

CHAPTER 48

(SB 42)

AN ACT relating to the state employee health plan.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 18A.2258 is amended to read as follows:

- (1) (a) By December 31, 2022, the secretary of the Finance and Administration Cabinet shall, upon the recommendation of the secretary of the Personnel Cabinet and in accordance with KRS Chapter 45A, select and ~~enter into a~~ contract *with*, the effective date of which shall not be later than January 1, 2023, ~~with~~ a single independent entity for the purpose of monitoring all pharmacy benefit claims for every individual enrolled in the Public Employee Health Insurance Program.
- (b) *By December 31, 2023, in addition to the contract in paragraph (a) of this subsection, the secretary of the Finance and Administration Cabinet shall, upon the recommendation of the secretary of the Personnel Cabinet and in accordance with KRS Chapter 45A, select and contract with a single independent entity for the purpose of monitoring all health care service benefit claims, other than pharmacy benefit claims, for every individual enrolled in the Public Employee Health Insurance Program.*
- (c) ~~Any~~ contract entered into pursuant to this subsection shall:
 1. Not be for a term longer than two (2) years but may be renewed for like or lesser periods; and
 2. Limit compensation paid to the contracted entity to not more than thirty percent (30%) of the total savings generated by the contracted entity as determined by the Personnel Cabinet.
- (2) To be eligible to receive a contract pursuant to subsection (1) of this section, an entity shall:
 - (a) Be capable of performing the analysis of ~~pharmacy~~ benefit claims to validate accuracy and identify errors in near real time;
 - (b) Not be an entity that performs annual retroactive audits of ~~pharmacy~~ benefit claims for the Public Employee Health Insurance Program; and
 - (c) Not be affiliated by common parent company or holding company, share any common members of the board of directors, or share managers in common with:
 1. An insurer contracted pursuant to KRS 18A.225;
 2. A third-party administrator contracted pursuant to KRS 18A.2254; or
 3. A pharmacy benefit manager contracted by:
 - a. The Personnel Cabinet;
 - b. An insurer contracted pursuant to KRS 18A.225; or
 - c. A third-party administrator contracted pursuant to KRS 18A.2254.
- (3) The entity *or entities* contracted pursuant to subsection (1) of this section shall:
 - (a) Be granted full access to:
 1. Any contract awarded to a *third-party administrator or* pharmacy benefit manager for the purpose of administering ~~pharmacy~~ benefits in the Public Employee Health Insurance Program and all pertinent reference documents within that contract, including but not limited to any *pharmacy* price lists or specialty drug price lists which shall be provided to the monitoring entity contracted pursuant to this section by the Personnel Cabinet and which shall be updated by the Personnel Cabinet within five (5) days of the effective date of any pricing changes;
 2. Any other contract that defines *an insurer's, third-party administrator's, or* ~~a~~ pharmacy benefit manager's obligations and responsibilities as it relates to processing Public Employee Health Insurance Program ~~pharmacy~~ benefit claims, including any contract between ~~a~~ ~~the~~ pharmacy

benefit manager and an insurer contracted pursuant to KRS 18A.225 or a third-party administrator contracted pursuant to KRS 18A.2254; and

3. Invoices and unaltered claims files associated with **benefits under** the Public Employee Health Insurance Program~~[pharmacy benefits]~~;
 - (b) Analyze one hundred percent (100%) of invoices or claims submitted for payment by the Public Employee Health Insurance Program. The entity shall not utilize statistical sampling methods in lieu of analyzing all invoices and claims;
 - (c) Identify and correct errors in~~[pharmacy]~~ benefit claims in order to avoid or reduce erroneous overpayments by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program;
 - (d) Identify underpayments made by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program;
 - (e) Identify inappropriate or erroneous fees imposed by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program; and
 - (f) ~~[Beginning on April 30, 2023, and quarterly thereafter,]~~ Submit a **quarterly** report to the Legislative Research Commission. The report shall include a summary of the analysis and errors identified pursuant to paragraphs (c), (d), and (e) of this subsection during the previous quarter.
- (4) The entity **or entities** contracted pursuant to subsection (1) of this section shall not perform drug utilization reviews **and shall not exercise any authority over the provision of health care benefits for Medicare eligible retirees.**
- (5) The analysis of claims and the identification of potential errors required by subsection (3)(b), (c), and (d) of this section shall:
 - (a) Occur prior to the due date of each claim or invoice submitted by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program or within five (5) days of receipt of the claim or invoice, whichever is later; and
 - (b) Consider at least the following:
 1. Compliance with all relevant administrative regulations promulgated by the Personnel Cabinet;
 2. Compliance with all state and federal laws relating to or applicable to the Public Employee Health Insurance Program;
 3. Compliance with any contract **with an insurer, third-party administrator, or**~~[between a]~~ pharmacy benefit manager~~[and the Personnel Cabinet, an insurer contracted pursuant to KRS 18A.225, or a third party administrator contracted pursuant to KRS 18A.2254]~~; and
 4. The market competitiveness of~~[pharmacy]~~ benefit payments, including the adequacy of payments to pharmacies **and other health care providers.**
- (6) The Personnel Cabinet may promulgate administrative regulations necessary to carry out this section.

➔Section 2. The first quarterly report due under subsection (3)(f) of Section 1 of this Act for monitoring pharmacy benefits claims shall be due on April 30, 2023.

➔Section 3. The first quarterly report due under subsection (3)(f) of Section 1 of this Act for monitoring health care service benefits claims shall be due April 30, 2024.

Signed by Governor March 22, 2023.