

**ACT No. 399**

HOUSE BILL NO. 436

BY REPRESENTATIVES ROBERT JOHNSON, ADAMS, ARMES, BADON, BARROW, BILLIOT, BROWN, BURRELL, CONNICK, COX, DOVE, EDWARDS, GAINES, GISCLAIR, GUILLORY, HARRISON, HAVARD, HUNTER, HUVAL, IVEY, JEFFERSON, LAMBERT, LEBAS, MONTOUCET, ORTEGO, PIERRE, PYLANT, REYNOLDS, ROBIDEAUX, THIBAUT, THIERRY, WHITNEY, PATRICK WILLIAMS, WILLMOTT, AND WOODRUFF

1 AN ACT

2 To amend and reenact R.S. 46:2625(A)(2) and to enact R.S. 22:1860.1 and R.S. 46:460.36,  
3 relative to reimbursement of provider fees remitted to the Department of Health and  
4 Hospitals; to provide that health insurance issuers reimburse pharmacies or  
5 pharmacists for payment of the fee; to provide for scope of application with respect  
6 to the medical assistance program; to provide for sanctions by the commissioner of  
7 insurance; to provide for appeals of sanctions; to provide for definitions; to provide  
8 for managed care organizations' pharmacy reimbursement; to require a dispute  
9 resolution process; to provide for the provision of implementation costs; and to  
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1860.1 is hereby enacted to read as follows:

13 §1860.1. Reimbursement of pharmacy provider fee; sanctions; administrative  
14 hearings

15 A. It is the obligation of a health insurance issuer or its agent to reimburse  
16 a pharmacist or his agent for fees remitted by a pharmacy or pharmacist or his agent  
17 in compliance with R.S. 46:2625.

18 B. The failure to reimburse a pharmacy or pharmacist or his agent by a  
19 health insurance issuer or its agent for the fees authorized in R.S. 46:2625(A)(1)  
20 shall be an act for which the health insurance issuer or its agent may be sanctioned  
21 by the commissioner in accordance with R.S. 22:1860. Any person sanctioned

1 pursuant to this Section may demand an administrative hearing in accordance with  
 2 Chapter 12 of this Title, R.S. 22:2191 et seq.

3 Section 2. R.S. 46:2625(A)(2) is hereby amended and reenacted and R.S. 46:460.36  
 4 is hereby enacted to read as follows:

5 §460.36. Pharmacy reimbursement by managed care organizations

6 A. Words and terms used in this Section shall have the following meanings:

7 (1) "Department" means the Department of Health and Hospitals.

8 (2) "Legacy Medicaid rate" means the lesser of one of the following:

9 (a) The published Medicaid fee-for-service reimbursement rate for the  
 10 combination of the ingredient cost and dispensing fee in use for the current approved  
 11 Medicaid state plan in effect on the date of service.

12 (b) The usual and customary charge. This charge shall be the price the  
 13 provider most frequently charges the general public for the same drug unless  
 14 otherwise defined in the current approved Medicaid state plan in effect on the date  
 15 of service.

16 (c) The pharmacy's submitted charge.

17 (3) "Local pharmacy" means any pharmacy, domiciled in at least one  
 18 Louisiana parish that meets both of the following criteria:

19 (a) Contracts with the managed care organization or the managed care  
 20 organization's contractor in its own name or through a pharmacy services  
 21 administration organization and not under the authority of a group purchasing  
 22 organization.

23 (b) Has fewer than ten retail outlets under its corporate umbrella.

24 B. A managed care organization may negotiate the ingredient cost  
 25 reimbursement in its contracts with providers.

26 C. Any contract between the department and a managed care organization  
 27 that includes provisions for pharmacy reimbursement shall provide for a  
 28 reimbursement dispute process for local pharmacies.

29 (1) Such reimbursement dispute process shall, at a minimum, include the  
 30 following elements:

1           (a) Final review authority shall be retained by the department or by a party  
2           agreed upon by the department, the Louisiana Association of Health Plans, and the  
3           Louisiana Independent Pharmacies Association.

4           (b) If the dispute results in a finding that reimbursement was unreasonable,  
5           the managed care organization shall be required to provide the pharmacy an  
6           increased reimbursement and shall update its maximum allowable cost list to reflect  
7           the increase.

8           (c) The department shall define reasonableness in relation to the contractual  
9           rate paid by the department to the managed care organization to manage pharmacy  
10           services in the medical assistance program.

11           (2) The department shall not amend any contract between itself and a  
12           managed care organization in order to comply with the requirements of this  
13           Subsection unless such amendment shall not increase the actuarially sound rate paid  
14           to the managed care organization as of March 1, 2015.

15           D. After June 15, 2016, no managed care organization shall pay a local  
16           pharmacy a per-prescription reimbursement at a rate less than the legacy Medicaid  
17           rate unless its contract with the department provides for a reimbursement dispute  
18           process as described in Subsection C of this Section.

19           E. The full cost of implementing and performing the provisions of this  
20           Section shall be the responsibility of the Department of Health and Hospitals through  
21           a reallocation of existing budget resources of the department and not through  
22           additional appropriations.

23                                           \*       \*       \*

24           §2625. Fees on health care providers; disposition of fees

25           A.

26                                           \*       \*       \*

27           (2)(a) Any fee authorized by and imposed pursuant to this Section shall be  
28           considered an allowable cost for purposes of insurance or other third party  
29           reimbursements and shall be included in the establishment of reimbursement rates.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           (b) Every contract between a pharmacy or pharmacist or his agent and a  
 2           health insurance issuer or its agent shall include provisions requiring the health  
 3           insurance issuer or its agent to reimburse the pharmacy or pharmacist or his agent  
 4           for payment of the fee authorized by Subparagraph (A)(1)(c) of this Section,  
 5           provided that the pharmacy or pharmacist or his agent makes a claim for  
 6           reimbursement of the fee. Reimbursement, in accordance with R.S. 22:1854, shall  
 7           be made not later than the fifteenth day after the date on which the claim was  
 8           electronically adjudicated in the manner by which the pharmacy or pharmacist or his  
 9           agent routinely receives reimbursement and accompanied by a remittance advice  
 10           generated by a health insurance issuer or its agent which shall clearly identify the fee  
 11           for each claim. Any contract that does not include such provisions shall nonetheless  
 12           be interpreted and enforced to comply with this Section.

13           (c) In the event any provision of Subparagraph (b) of this Paragraph prevents  
 14           any sums otherwise certifiable by the state as a component of its share of  
 15           expenditures in the medical assistance program from being used in such manner, the  
 16           provision shall be ineffective to the extent it prevents the certification.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_