

SENATE BILL NO. 679

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

2534S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to payments for prescription drugs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 376, RSMo, is amended by adding thereto
2 one new section, to be known as section 376.414, to read as
3 follows:

**376.414. 1. For purposes of this section, the
2 following terms mean:**

(1) "340B drug", a drug that is:

(a) A covered outpatient drug as defined in Section
4 340B of the Public Health Service Act, 42 U.S.C. Section
5 256b, enacted by Section 602 of the Veterans Health Care Act
6 of 1992, Pub. L. 102-585; and

(b) Purchased under an agreement entered into under 42
9 U.S.C. Section 256b;

(2) "Covered entity", a federally-qualified health
11 center as defined in 42 U.S.C. Section 256b(a)(4)(A);

(3) "Health carrier", the same meaning given to the
13 term in section 376.1350;

(4) "Pharmacy benefits manager", the same meaning
15 given to the term in section 376.388;

(5) "Specified pharmacy", a pharmacy licensed under
17 chapter 338 with which a covered entity has contracted to
18 dispense 340B drugs on behalf of the covered entity,

19 regardless of whether the 340B drugs are distributed in
20 person or through the mail.

21 2. A health carrier or pharmacy benefits manager shall
22 not discriminate against a covered entity or a specified
23 pharmacy by doing any of the following:

24 (1) Reimbursing a covered entity or specified pharmacy
25 for a quantity of a 340B drug in an amount less than such
26 health carrier or pharmacy benefits manager would pay to any
27 other similarly situated pharmacy that is not a covered
28 entity or a specified pharmacy for such quantity of such
29 drug on the basis that the entity or pharmacy is a covered
30 entity or specified pharmacy or that the entity or pharmacy
31 dispenses 340B drugs;

32 (2) Imposing any terms or conditions on covered
33 entities or specified pharmacies that differ from such terms
34 or conditions applied to other similarly situated pharmacies
35 that are not covered entities or specified pharmacies on the
36 basis that the entity or pharmacy is a covered entity or
37 specified pharmacy or that the entity or pharmacy dispenses
38 340B drugs, including, but not limited to, terms or
39 conditions with respect to any of the following:

40 (a) Fees, chargebacks, clawbacks, adjustments, or
41 other assessments;

42 (b) Professional dispensing fees;

43 (c) Restrictions or requirements regarding
44 participation in standard or preferred pharmacy networks;

45 (d) Requirements relating to the frequency or scope of
46 audits or to inventory management systems using generally
47 accepted accounting principles; and

48 (e) Any other restrictions, conditions, practices, or
49 policies that, as specified by the director of the
50 department of commerce and insurance, interfere with the

51 ability of a covered entity to maximize the value of
52 discounts provided under 42 U.S.C. Section 256b;

53 (3) Interfering with an individual's choice to receive
54 a 340B drug from a covered entity or specified pharmacy,
55 whether in person or via direct delivery, mail, or other
56 form of shipment;

57 (4) Requiring a covered entity or specified pharmacy
58 to identify, either directly or through a third party, 340B
59 drugs; or

60 (5) Refusing to contract with a covered entity or
61 specified pharmacy for reasons other than those that apply
62 equally to entities or pharmacies that are not covered
63 entities or specified pharmacies, or on the basis that:

64 (a) The entity or pharmacy is a covered entity or a
65 specified pharmacy; or

66 (b) The entity or pharmacy is described in any of
67 subparagraphs (A) to (O) of 42 U.S.C. Section 256b(a)(4).

68 3. The director of the department of commerce and
69 insurance shall impose a civil penalty on any pharmacy
70 benefits manager that violates the requirements of this
71 section. Such penalty shall not exceed five thousand
72 dollars per violation per day.

73 4. The director of the department of commerce and
74 insurance shall promulgate rules to implement the provisions
75 of this section. Any rule or portion of a rule, as that
76 term is defined in section 536.010, that is created under
77 the authority delegated in this section shall become
78 effective only if it complies with and is subject to all of
79 the provisions of chapter 536 and, if applicable, section
80 536.028. This section and chapter 536 are nonseverable and
81 if any of the powers vested with the general assembly
82 pursuant to chapter 536 to review, to delay the effective

83 date, or to disapprove and annul a rule are subsequently
84 held unconstitutional, then the grant of rulemaking
85 authority and any rule proposed or adopted after August 28,
86 2023, shall be invalid and void.

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