

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3377

By: McEntire

AS INTRODUCED

An Act relating to pharmacy benefit management; amending 36 O.S. 2021, Section 6960, as amended by Section 1, Chapter 38, O.S.L. 2022 (36 O.S. Supp. 2023, Section 6960), which relates to definitions; modifying definition; amending 59 O.S. 2021, Section 357, which relates to definitions; modifying definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2021, Section 6960, as amended by Section 1, Chapter 38, O.S.L. 2022 (36 O.S. Supp. 2023, Section 6960), is amended to read as follows:

Section 6960. For purposes of the Patient's Right to Pharmacy Choice Act:

1. "Health insurer" means any corporation, association, benefit society, exchange, partnership or individual licensed by the Oklahoma Insurance Code;

1 2. "Health insurer payor" means a health insurance company,
2 health maintenance organization, union, hospital and medical
3 services organization or any entity providing or administering a
4 self-funded health benefit plan;

5 3. "Mail-order pharmacy" means a pharmacy licensed by this
6 state that primarily dispenses and delivers covered drugs via common
7 carrier;

8 4. "Pharmacy benefits manager" or "PBM" means a person that
9 performs pharmacy benefits management, as defined in Section 357 of
10 Title 59 of the Oklahoma Statutes, and any other person acting for
11 such person under a contractual or employment relationship in the
12 performance of pharmacy benefits management for a managed-care
13 company, nonprofit hospital, medical service organization, insurance
14 company, third-party payor or a health program administered by a
15 department of this state;

16 5. "Provider" means a pharmacy, as defined in Section 353.1 of
17 Title 59 of the Oklahoma Statutes or an agent or representative of a
18 pharmacy;

19 6. "Retail pharmacy network" means retail pharmacy providers
20 contracted with a PBM in which the pharmacy primarily fills and
21 sells prescriptions via a retail, storefront location;

22 7. "Rural service area" means a five-digit ZIP code in which
23 the population density is less than one thousand (1,000) individuals
24 per square mile;

1 8. "Spread pricing" means a prescription drug pricing model
2 utilized by a pharmacy benefits manager in which the PBM charges a
3 health benefit plan a contracted price for prescription drugs that
4 differs from the amount the PBM directly or indirectly pays the
5 pharmacy or pharmacist for providing pharmacy services;

6 9. "Suburban service area" means a five-digit ZIP code in which
7 the population density is between one thousand (1,000) and three
8 thousand (3,000) individuals per square mile; and

9 10. "Urban service area" means a five-digit ZIP code in which
10 the population density is greater than three thousand (3,000)
11 individuals per square mile.

12 SECTION 2. AMENDATORY 59 O.S. 2021, Section 357, is
13 amended to read as follows:

14 Section 357. As used in this act:

15 1. "Covered entity" means a nonprofit hospital or medical
16 service organization, insurer, health coverage plan or health
17 maintenance organization; a health program administered by the state
18 in the capacity of provider of health coverage; or an employer,
19 labor union, or other entity organized in the state that provides
20 health coverage to covered individuals who are employed or reside in
21 the state. This term does not include a workers' compensation
22 insurer or a health plan that provides coverage only for accidental
23 injury, specified disease, hospital indemnity, disability income, or
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1 other limited benefit health insurance policies and contracts that
2 do not include prescription drug coverage;

3 2. "Covered individual" means a member, participant, enrollee,
4 contract holder or policy holder or beneficiary of a covered entity
5 who is provided health coverage by the covered entity. A covered
6 individual includes any dependent or other person provided health
7 coverage through a policy, contract or plan for a covered
8 individual;

9 3. "Department" means the Oklahoma Insurance Department;

10 4. "Maximum allowable cost" or "MAC" means the list of drug
11 products delineating the maximum per-unit reimbursement for
12 multiple-source prescription drugs, medical product or device;

13 5. "Multisource drug product reimbursement" (reimbursement)
14 means the total amount paid to a pharmacy inclusive of any reduction
15 in payment to the pharmacy, excluding prescription dispense fees;

16 6. "Pharmacy benefits management" means a service provided to
17 covered entities to facilitate the provision of prescription drug
18 benefits to covered individuals within the state, including
19 negotiating pricing and other terms with drug manufacturers and
20 providers. Pharmacy benefits management may include any or all of
21 the following services:

- 22 a. claims processing, retail network management and
23 payment of claims to pharmacies for prescription drugs
24 dispensed to covered individuals,

- b. clinical formulary development and management services,
- c. rebate contracting and administration,
- d. certain patient compliance, therapeutic intervention and generic substitution programs, or
- e. disease management programs;

7. "Pharmacy benefits manager" or "PBM" means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, nonprofit hospital, medical service organization, insurance company, third-party payor, or a health program administered by an agency of this state;

8. "Plan sponsor" means the employers, insurance companies, unions and health maintenance organizations or any other entity responsible for establishing, maintaining, or administering a health benefit plan on behalf of covered individuals; and

9. "Provider" means a pharmacy licensed by the State Board of Pharmacy, or an agent or representative of a pharmacy, including, but not limited to, the pharmacy's contracting agent, which dispenses prescription drugs or devices to covered individuals.

1 SECTION 3. This act shall become effective November 1, 2024.

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