



Senate

General Assembly

File No. 646

February Session, 2010

Substitute Senate Bill No. 254

Senate, April 27, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING DISCLOSURE OF MAXIMUM ALLOWABLE COSTS FOR PHARMACY REIMBURSEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) For each prescription
2 drug, prescription device, pharmacist services or prescription drug
3 and device and pharmacist services portion of a health benefit plan a
4 pharmacy benefits manager administers, such manager shall establish
5 a list of maximum allowable costs for generic prescription drugs to be
6 paid under such health benefit plan. Each such list shall be updated
7 monthly. An intentional or wilful violation of this section shall be
8 deemed an unfair or deceptive business practice subject to the
9 provisions of section 38a-479ccc of the general statutes, as amended by
10 this act.

11 Sec. 2. Section 38a-479ccc of the general statutes is repealed and the
12 following is substituted in lieu thereof (*Effective October 1, 2010*):

13 (a) Upon receipt of a completed application, evidence of a surety

14 bond and fee, the commissioner shall: (1) Issue and deliver to the
15 applicant a certificate of registration; or (2) refuse to issue the
16 certificate.

17 (b) The commissioner may suspend, revoke or refuse to issue or
18 renew any certificate of registration for: (1) Conduct, including, but not
19 limited to, advertising or soliciting, of a character likely to mislead,
20 deceive or defraud the public or the commissioner; (2) unfair or
21 deceptive business practices; or (3) nonpayment of the renewal fee.

22 (c) The commissioner shall not suspend or revoke any certificate of
23 registration except upon notice and hearing in accordance with chapter
24 54.

25 Sec. 3. Section 38a-479aaa of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2010*):

27 As used in this section, [and] sections 38a-479bbb to 38a-479hhh,
28 inclusive, as amended by this act, and section 1 of this act:

29 (1) "Commissioner" means the Insurance Commissioner;

30 (2) "Department" means the Insurance Department;

31 (3) "Drug" means drug, as defined in section 21a-92;

32 (4) "Person" means person, as defined in section 38a-1;

33 (5) "Pharmacist services" includes (A) drug therapy and other
34 patient care services provided by a licensed pharmacist intended to
35 achieve outcomes related to the cure or prevention of a disease,
36 elimination or reduction of a patient's symptoms, and (B) education or
37 intervention by a licensed pharmacist intended to arrest or slow a
38 disease process;

39 (6) "Pharmacist" means an individual licensed to practice pharmacy
40 under section 20-590, 20-591, 20-592 or 20-593, and who is thereby
41 recognized as a health care provider by the state of Connecticut;

42 (7) "Pharmacy" means a place of business where drugs may be sold
 43 at retail and for which a pharmacy license has been issued to an
 44 applicant pursuant to section 20-594; and

45 (8) "Pharmacy benefits manager" or "manager" means any person
 46 that administers the prescription drug, prescription device, pharmacist
 47 services or prescription drug and device and pharmacist services
 48 portion of a health benefit plan on behalf of plan sponsors such as self-
 49 insured employers, insurance companies, labor unions and health care
 50 centers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	38a-479ccc
Sec. 3	<i>October 1, 2010</i>	38a-479aaa

Statement of Legislative Commissioners:

Section 1 was amended to change the second reference to "device" to "drug and device" for statutory consistency, and section 3 was added to insert a reference to section 1 for statutory consistency.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires pharmacy benefits managers to establish a monthly list of maximum allowable costs for generic prescription drugs, does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 254*****AN ACT CONCERNING DISCLOSURE OF MAXIMUM ALLOWABLE COSTS FOR PHARMACY REIMBURSEMENTS.*****SUMMARY:**

This bill requires a pharmacy benefits manager (PBM) who administers that part of a health benefit plan that covers either (1) prescription drug, prescription device, or pharmacist services or (2) prescription drug and device and pharmacist services to establish a list of maximum allowable costs the plan will pay for generic prescription drugs. This list must be updated monthly.

An intentional or willful violation of the bill is deemed an unfair or deceptive business practice for which the insurance commissioner may suspend, revoke, or deny the PBM's registration.

By law PBMs, with certain exceptions, must obtain a certificate of registration from the Insurance Department before operating in Connecticut. The insurance commissioner may suspend, revoke, or deny registration for (1) conduct likely to mislead, deceive, or defraud the public or commissioner; (2) unfair or deceptive business practices; or (3) failure to pay the renewal fee. The bill specifies that "conduct" includes advertising and soliciting.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Pharmacy Benefit Managers***

PBMs are fiscal intermediaries that administer and manage prescription drug benefit plans on behalf of plan sponsors (e.g., self-

insured employers, insurers, labor unions, or HMOs). They handle such administrative tasks as collecting funds from plan sponsors; paying providers; processing claims; and answering questions from pharmacists, doctors, and plan enrollees. They manage prescription costs through various means, including negotiating prices and rebates with drug manufacturers, requiring generic drug substitution, imposing copayment and coinsurance cost-sharing, developing restricted drug formularies, providing disease management education, implementing mail order prescription programs, and performing utilization review.

Legislative History

The Senate referred the bill (File 293) to the Judiciary Committee, which reported out a substitute bill. The substitute makes an intentional or willful violation, instead of any violation, an unfair or deceptive business practice.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute
Yea 19 Nay 0 (03/18/2010)

Judiciary Committee

Joint Favorable Substitute
Yea 39 Nay 0 (04/20/2010)