

Amend CSSB 1846 (house committee printing) by inserting the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 1575, Insurance Code, is amended by adding Sections 1575.057, 1575.058, 1575.059, 1575.060, 1575.061, and 1575.062 to read as follows:

Sec. 1575.057. TREATMENT OF CERTAIN REVENUE FROM PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that:

(1) with respect to any transaction with a pharmaceutical manufacturer or labeler in relation to the program, the pharmacy benefit manager represents the interests of the program; and

(2) any compensation provided by a pharmaceutical manufacturer or labeler to the pharmacy benefit manager in relation to the program must be remitted to the trustee for deposit to the credit of the retired school employees group insurance fund, including compensation provided for formulary management and drug-switch programs, educational support, claims processing and pharmacy network fees that are charged from retail pharmacies, and data sales fees.

Sec. 1575.058. SPECIALTY PHARMACY SERVICES. (a) In this section:

(1) "Pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(2) "Specialty pharmacy service" means a service offered by a pharmacy benefit manager in relation to benefits that involve chronic conditions, unusually high treatment costs, or

management of complex care issues. The term specifically includes the provision of pharmaceutical benefits involving:

(A) injectable and infusion therapies;

(B) therapies with annual costs to the patient of \$5,000 or more; and

(C) therapies requiring complex care.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program that includes specialty pharmacy services must provide that the pharmacy benefit manager shall:

(1) pass through to the trustee for deposit to the credit of the retired school employees group insurance fund 100 percent of any revenue associated with distribution of a specialty pharmacy product paid by a pharmaceutical manufacturer or labeler to the pharmacy benefit manager;

(2) agree to charge the trustee on an acquisition cost basis, which may include a dispensing fee, for all specialty pharmacy prescriptions, based on actual inventory costs or wholesale acquisition cost; and

(3) provide case management for critical disease conditions, as specified by the contract, and agree not to incorporate the costs of the case management into the costs assessed for drug ingredients for the specialty pharmacy product.

Sec. 1575.059. MAIL ORDER PHARMACY SERVICES. (a) In this section:

(1) "Mail order pharmacy" means a pharmacy that is licensed as a Class A or Class E pharmacy under Chapter 560, Occupations Code, and that primarily delivers prescription drugs to an enrollee through the United States Postal Service or a commercial delivery service.

(2) "Pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program that includes pharmacy services must provide that the pharmacy benefit manager shall agree to

charge the trustee on an acquisition cost basis, which may include a dispensing fee, for all prescriptions filled by a mail order pharmacy, based on actual inventory costs or wholesale acquisition cost.

Sec. 1575.060. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that the pharmacy benefit manager may not charge the program an amount for a brand retail claim payment or generic retail claim payment that is more than the amount the pharmacy benefit manager pays a pharmacy in the pharmacy benefit manager's retail network for the same claim.

Sec. 1575.061. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that the trustee, using an auditor selected by the trustee, may audit:

- (1) the program's pharmacy benefit claims;
- (2) the pharmacy benefit manager's contracts with pharmacies and pharmaceutical manufacturers and labelers;
- (3) the pharmacy benefit manager's utilization management clinical criteria; and
- (4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

Sec. 1575.062. PHARMACY BENEFIT MANAGERS: DESIGNATION OF CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may designate as confidential any information the pharmacy benefit

manager is required to disclose to comply with Section 1575.057, 1575.058, 1575.059, 1575.060, or 1575.061.

(b) Information designated as confidential under this section may not be disclosed by the trustee to any person without the consent of the pharmacy benefit manager unless the disclosure is:

(1) ordered by a court for good cause shown;

(2) made under seal in a court filing; or

(3) made to the commissioner or the attorney general in connection with an investigation authorized by this code or any other law.

SECTION _____. The change in law made by this Act in adding Sections 1575.057, 1575.058, 1575.059, 1575.060, 1575.061, and 1575.062, Insurance Code, applies only to a contract entered into with a pharmacy benefit manager under Chapter 1575, Insurance Code, on or after the effective date of this Act.