

By: Miller of Comal

H.B. No. 3262

Substitute the following for H.B. No. 3262:

By: Sheffield of Coryell

C.S.H.B. No. 3262

A BILL TO BE ENTITLED

1 AN ACT

2 relating to pharmacy benefit managers contracting with the child
3 health plan program, the Medicaid managed care program, and health
4 plans for certain government employees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 531, Government Code, is amended by
7 adding Subchapter Y to read as follows:

8 SUBCHAPTER Y. PHARMACY BENEFIT MANAGERS

9 Sec. 531.990. APPLICABILITY. This subchapter applies only
10 to a Medicaid managed care program under Chapter 533 and the child
11 health plan program.

12 Sec. 531.991. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

13 (a) In this section, "maximum allowable cost" means a maximum
14 reimbursement amount for a group of therapeutically and
15 pharmaceutically equivalent multiple source medications.

16 (b) Each contract to provide pharmacy benefit manager
17 services must require the pharmacy benefit manager to:

18 (1) establish:

19 (A) a method of calculating, updating, and
20 revising a maximum allowable cost for each covered medication;

21 (B) intervals not to exceed seven days for
22 updating or revising the maximum allowable cost for each medication
23 on the maximum allowable cost list; and

24 (C) for that contract a single maximum allowable

1 cost list that uniformly serves as a basis for the calculation of
2 reimbursement amounts for pharmacy claims covered by the child
3 health plan program or Medicaid managed care program;

4 (2) develop and maintain a public Internet website and
5 post and maintain on the website the information required by
6 Subdivision (1)(C);

7 (3) notify each retail pharmacy affected by a
8 modification of a maximum allowable cost of the modification on the
9 date of the modification;

10 (4) disclose the data sources from which the pharmacy
11 benefit manager obtains pricing data used in establishing a maximum
12 allowable cost; and

13 (5) not less frequently than once a week, notify each
14 retail pharmacy affected by the pharmacy benefit manager's
15 substitution or deletion of, or addition to, a data source from
16 which the pharmacy benefit manager obtains pricing data used in
17 establishing a maximum allowable cost of the substitution,
18 deletion, or addition.

19 (c) A contract to provide pharmacy benefit manager services
20 must require the pharmacy benefit manager to provide to the
21 commission the information described by Subsections (b)(1)(B) and
22 (C). On request, the commission shall provide the information to a
23 pharmacist or pharmacy.

24 (d) A contract to provide pharmacy benefit manager services
25 must require that each medication on a maximum allowable cost list:

26 (1) is listed as "A" or "B" rated in the most recent
27 version of the United States Food and Drug Administration's Drug

1 Products with Therapeutic Equivalence Evaluations, also known as
2 the Orange Book;

3 (2) is rated "NR" or "NA" by Medi-Span; or

4 (3) has a similar rating by a nationally recognized
5 reference.

6 (e) A contract to provide pharmacy benefit manager services
7 must require the pharmacy benefit manager to:

8 (1) provide a procedure for a retail pharmacy to
9 challenge a listed maximum allowable cost;

10 (2) respond to a challenge under that procedure not
11 later than the 15th day after the date the challenge is made;

12 (3) if the challenge is successful, adjust the maximum
13 allowable cost effective on the date the challenge is resolved and
14 apply the adjustment to all retail pharmacies under the contract;

15 (4) if the challenge is denied, provide each reason
16 for the denial; and

17 (5) report every 90 days to the commission the total
18 number of challenges made and denied in the preceding 90-day period
19 to the maximum allowable cost for each medication the maximum
20 allowable cost of which was challenged during that period.

21 SECTION 2. Subchapter B, Chapter 1551, Insurance Code, is
22 amended by adding Section 1551.0671 to read as follows:

23 Sec. 1551.0671. TRANSPARENCY IN PHARMACY BENEFIT
24 MANAGEMENT. (a) In this section, "maximum allowable cost" means a
25 maximum reimbursement amount for a group of therapeutically and
26 pharmaceutically equivalent multiple source medications.

27 (b) Each contract to provide pharmacy benefit manager

1 services must require the pharmacy benefit manager to:

2 (1) establish:

3 (A) a method of calculating, updating, and
4 revising a maximum allowable cost for each covered medication;

5 (B) intervals not to exceed seven days for
6 updating or revising the maximum allowable cost for each medication
7 on the maximum allowable cost list; and

8 (C) for that contract a single maximum allowable
9 cost list that uniformly serves as a basis for the calculation of
10 reimbursement amounts for pharmacy claims covered by the group
11 benefits program;

12 (2) develop and maintain a public Internet website and
13 post and maintain on the website the information required by
14 Subdivision (1)(C);

15 (3) notify each retail pharmacy affected by a
16 modification of a maximum allowable cost of the modification on the
17 date of the modification;

18 (4) disclose the data sources from which the pharmacy
19 benefit manager obtains pricing data used in establishing a maximum
20 allowable cost; and

21 (5) not less frequently than once a week, notify each
22 retail pharmacy affected by the pharmacy benefit manager's
23 substitution or deletion of, or addition to, a data source from
24 which the pharmacy benefit manager obtains pricing data used in
25 establishing a maximum allowable cost of the substitution,
26 deletion, or addition.

27 (c) A contract to provide pharmacy benefit manager services

1 must require the pharmacy benefit manager to provide to the board of
2 trustees the information described by Subsections (b)(1)(B) and
3 (C). On request, the board of trustees shall provide the
4 information to a pharmacist or pharmacy.

5 (d) A contract to provide pharmacy benefit manager services
6 must require that each medication on a maximum allowable cost list:

7 (1) is listed as "A" or "B" rated in the most recent
8 version of the United States Food and Drug Administration's Drug
9 Products with Therapeutic Equivalence Evaluations, also known as
10 the Orange Book;

11 (2) is rated "NR" or "NA" by Medi-Span; or

12 (3) has a similar rating by a nationally recognized
13 reference.

14 (e) A contract to provide pharmacy benefit manager services
15 must require the pharmacy benefit manager to:

16 (1) provide a procedure for a retail pharmacy to
17 challenge a listed maximum allowable cost;

18 (2) respond to a challenge under that procedure not
19 later than the 15th day after the date the challenge is made;

20 (3) if the challenge is successful, adjust the maximum
21 allowable cost effective on the date the challenge is resolved and
22 apply the adjustment to all retail pharmacies under the contract;

23 (4) if the challenge is denied, provide each reason
24 for the denial; and

25 (5) report every 90 days to the board of trustees the
26 total number of challenges made and denied in the preceding 90-day
27 period to the maximum allowable cost for each medication the

1 maximum allowable cost of which was challenged during that period.

2 SECTION 3. Subchapter C, Chapter 1575, Insurance Code, is
3 amended by adding Section 1575.111 to read as follows:

4 Sec. 1575.111. TRANSPARENCY IN PHARMACY BENEFIT
5 MANAGEMENT. (a) In this section, "maximum allowable cost" means a
6 maximum reimbursement amount for a group of therapeutically and
7 pharmaceutically equivalent multiple source medications.

8 (b) Each contract to provide pharmacy benefit manager
9 services must require the pharmacy benefit manager to:

10 (1) establish:

11 (A) a method of calculating, updating, and
12 revising a maximum allowable cost for each covered medication;

13 (B) intervals not to exceed seven days for
14 updating or revising the maximum allowable cost for each medication
15 on the maximum allowable cost list; and

16 (C) for that contract a single maximum allowable
17 cost list that uniformly serves as a basis for the calculation of
18 reimbursement amounts for pharmacy claims covered by the group
19 program;

20 (2) develop and maintain a public Internet website and
21 post and maintain on the website the information required by
22 Subdivision (1)(C);

23 (3) notify each retail pharmacy affected by a
24 modification of a maximum allowable cost of the modification on the
25 date of the modification;

26 (4) disclose the data sources from which the pharmacy
27 benefit manager obtains pricing data used in establishing a maximum

1 allowable cost; and

2 (5) not less frequently than once a week, notify each
3 retail pharmacy affected by the pharmacy benefit manager's
4 substitution or deletion of, or addition to, a data source from
5 which the pharmacy benefit manager obtains pricing data used in
6 establishing a maximum allowable cost of the substitution,
7 deletion, or addition.

8 (c) A contract to provide pharmacy benefit manager services
9 must require the pharmacy benefit manager to provide to the trustee
10 the information described by Subsections (b)(1)(B) and (C). On
11 request, the trustee shall provide the information to a pharmacist
12 or pharmacy.

13 (d) A contract to provide pharmacy benefit manager services
14 must require that each medication on a maximum allowable cost list:

15 (1) is listed as "A" or "B" rated in the most recent
16 version of the United States Food and Drug Administration's Drug
17 Products with Therapeutic Equivalence Evaluations, also known as
18 the Orange Book;

19 (2) is rated "NR" or "NA" by Medi-Span; or

20 (3) has a similar rating by a nationally recognized
21 reference.

22 (e) A contract to provide pharmacy benefit manager services
23 must require the pharmacy benefit manager to:

24 (1) provide a procedure for a retail pharmacy to
25 challenge a listed maximum allowable cost;

26 (2) respond to a challenge under that procedure not
27 later than the 15th day after the date the challenge is made;

1 (3) if the challenge is successful, adjust the maximum
2 allowable cost effective on the date the challenge is resolved and
3 apply the adjustment to all retail pharmacies under the contract;

4 (4) if the challenge is denied, provide each reason
5 for the denial; and

6 (5) report every 90 days to the trustee the total
7 number of challenges made and denied in the preceding 90-day period
8 to the maximum allowable cost for each medication the maximum
9 allowable cost of which was challenged during that period.

10 SECTION 4. Subchapter B, Chapter 1579, Insurance Code, is
11 amended by adding Section 1579.058 to read as follows:

12 Sec. 1579.058. TRANSPARENCY IN PHARMACY BENEFIT
13 MANAGEMENT. (a) In this section, "maximum allowable cost" means a
14 maximum reimbursement amount for a group of therapeutically and
15 pharmaceutically equivalent multiple source medications.

16 (b) Each contract to provide pharmacy benefit manager
17 services must require the pharmacy benefit manager to:

18 (1) establish:

19 (A) a method of calculating, updating, and
20 revising a maximum allowable cost for each covered medication;

21 (B) intervals not to exceed seven days for
22 updating or revising the maximum allowable cost for each medication
23 on the maximum allowable cost list; and

24 (C) for that contract a single maximum allowable
25 cost list that uniformly serves as a basis for the calculation of
26 reimbursement amounts for pharmacy claims covered by a health
27 coverage plan;

1 (2) develop and maintain a public Internet website and
2 post and maintain on the website the information required by
3 Subdivision (1)(C);

4 (3) notify each retail pharmacy affected by a
5 modification of a maximum allowable cost of the modification on the
6 date of the modification;

7 (4) disclose the data sources from which the pharmacy
8 benefit manager obtains pricing data used in establishing a maximum
9 allowable cost; and

10 (5) not less frequently than once a week, notify each
11 retail pharmacy affected by the pharmacy benefit manager's
12 substitution or deletion of, or addition to, a data source from
13 which the pharmacy benefit manager obtains pricing data used in
14 establishing a maximum allowable cost of the substitution,
15 deletion, or addition.

16 (c) A contract to provide pharmacy benefit manager services
17 must require the pharmacy benefit manager to provide to the trustee
18 the information described by Subsections (b)(1)(B) and (C). On
19 request, the trustee shall provide the information to a pharmacist
20 or pharmacy.

21 (d) A contract to provide pharmacy benefit manager services
22 must require that each medication on a maximum allowable cost list:

23 (1) is listed as "A" or "B" rated in the most recent
24 version of the United States Food and Drug Administration's Drug
25 Products with Therapeutic Equivalence Evaluations, also known as
26 the Orange Book;

27 (2) is rated "NR" or "NA" by Medi-Span; or

1 (3) has a similar rating by a nationally recognized
2 reference.

3 (e) A contract to provide pharmacy benefit manager services
4 must require the pharmacy benefit manager to:

5 (1) provide a procedure for a retail pharmacy to
6 challenge a listed maximum allowable cost;

7 (2) respond to a challenge under that procedure not
8 later than the 15th day after the date the challenge is made;

9 (3) if the challenge is successful, adjust the maximum
10 allowable cost effective on the date the challenge is resolved and
11 apply the adjustment to all retail pharmacies under the contract;

12 (4) if the challenge is denied, provide each reason
13 for the denial; and

14 (5) report every 90 days to the trustee the total
15 number of challenges made and denied in the preceding 90-day period
16 to the maximum allowable cost for each medication the maximum
17 allowable cost of which was challenged during that period.

18 SECTION 5. Subchapter B, Chapter 1601, Insurance Code, is
19 amended by adding Section 1601.065 to read as follows:

20 Sec. 1601.065. TRANSPARENCY IN PHARMACY BENEFIT
21 MANAGEMENT. (a) In this section, "maximum allowable cost" means a
22 maximum reimbursement amount for a group of therapeutically and
23 pharmaceutically equivalent multiple source medications.

24 (b) Each contract to provide pharmacy benefit manager
25 services must require the pharmacy benefit manager to:

26 (1) establish:

27 (A) a method of calculating, updating, and

1 revising a maximum allowable cost for each covered medication;

2 (B) intervals not to exceed seven days for
3 updating or revising the maximum allowable cost for each medication
4 on the maximum allowable cost list; and

5 (C) for that contract a single maximum allowable
6 cost list that uniformly serves as a basis for the calculation of
7 reimbursement amounts for pharmacy claims covered by the basic
8 coverage;

9 (2) develop and maintain a public Internet website and
10 post and maintain on the website the information required by
11 Subdivision (1)(C);

12 (3) notify each retail pharmacy affected by a
13 modification of a maximum allowable cost of the modification on the
14 date of the modification;

15 (4) disclose the data sources from which the pharmacy
16 benefit manager obtains pricing data used in establishing a maximum
17 allowable cost; and

18 (5) not less frequently than once a week, notify each
19 retail pharmacy affected by the pharmacy benefit manager's
20 substitution or deletion of, or addition to, a data source from
21 which the pharmacy benefit manager obtains pricing data used in
22 establishing a maximum allowable cost of the substitution,
23 deletion, or addition.

24 (c) A contract to provide pharmacy benefit manager services
25 must require the pharmacy benefit manager to provide to the
26 governing board of the system the information described by
27 Subsections (b)(1)(B) and (C). On request, the system shall

1 provide the information to a pharmacist or pharmacy.

2 (d) A contract to provide pharmacy benefit manager services
3 must require that each medication on a maximum allowable cost list:

4 (1) is listed as "A" or "B" rated in the most recent
5 version of the United States Food and Drug Administration's Drug
6 Products with Therapeutic Equivalence Evaluations, also known as
7 the Orange Book;

8 (2) is rated "NR" or "NA" by Medi-Span; or

9 (3) has a similar rating by a nationally recognized
10 reference.

11 (e) A contract to provide pharmacy benefit manager services
12 must require the pharmacy benefit manager to:

13 (1) provide a procedure for a retail pharmacy to
14 challenge a listed maximum allowable cost;

15 (2) respond to a challenge under that procedure not
16 later than the 15th day after the date the challenge is made;

17 (3) if the challenge is successful, adjust the maximum
18 allowable cost effective on the date the challenge is resolved and
19 apply the adjustment to all retail pharmacies under the contract;

20 (4) if the challenge is denied, provide each reason
21 for the denial; and

22 (5) report every 90 days to the system the total number
23 of challenges made and denied in the preceding 90-day period to the
24 maximum allowable cost for each medication the maximum allowable
25 cost of which was challenged during that period.

26 SECTION 6. Subchapter Y, Chapter 531, Government Code, and
27 Sections 1551.0671, 1575.111, 1579.058, and 1601.065, Insurance

1 Code, as added by this Act, apply only to a contract with a pharmacy
2 benefit manager entered into or renewed on or after the effective
3 date of this Act.

4 SECTION 7. This Act takes effect September 1, 2013.