

By: Harris

H.B. No. 2978

A BILL TO BE ENTITLED

AN ACT

relating to the minimum reimbursement amount for prescription drugs and devices to health benefit plan network pharmacists and pharmacies.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. MINIMUM REIMBURSEMENT AMOUNT FOR NETWORK PHARMACISTS AND PHARMACIES

Sec. 1369.371. DEFINITIONS. In this subchapter:

(1) "Health benefit plan" has the meaning assigned by Section 1369.251.

(2) "Pharmacy benefit manager" means:

(A) a pharmacy benefit manager, as defined by Section 4151.151; or

(B) a health benefit plan issuer or sponsor that administers pharmacy benefits in connection with the health benefit plan.

Sec. 1369.372. APPLICABILITY OF SUBCHAPTER. This subchapter applies to the administration of pharmacy benefits by or on behalf of an issuer or sponsor of a health benefit plan.

Sec. 1369.373. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to an issuer or provider of health benefits under or a pharmacy benefit manager

1 administering pharmacy benefits under:

2 (1) the state Medicaid program, including the Medicaid
3 managed care program operated under Chapter 540, Government Code;

4 (2) the child health plan program under Chapter 62,
5 Health and Safety Code;

6 (3) the TRICARE military health system;

7 (4) a basic coverage plan under Chapter 1551;

8 (5) a basic plan under Chapter 1575;

9 (6) a coverage plan under Chapter 1579;

10 (7) a plan providing basic coverage under Chapter
11 1601; or

12 (8) a workers' compensation insurance policy or other
13 form of providing medical benefits under Title 5, Labor Code.

14 Sec. 1369.374. REIMBURSEMENT MINIMUM; DISPENSING FEES.

15 (a) Notwithstanding any other law and subject to Subsection (c), a
16 pharmacy benefit manager may not reimburse a pharmacist or pharmacy
17 under contract with the pharmacy benefit manager for a prescription
18 drug or device an amount that is less than the actual cost to that
19 pharmacist or pharmacy for the drug or device.

20 (b) Subsection (a) does not apply to a pharmacy benefit
21 manager using an ingredient cost reimbursement methodology for a
22 prescription drug or device that is identical to the reimbursement
23 methodology for the ingredient cost of the drug or device under the
24 Medicaid fee-for-service model.

25 (c) In calculating the reimbursement amount for a
26 prescription drug or device under Subsection (a), a pharmacy
27 benefit manager may not include in that calculation the amount of a

1 professional dispensing fee payable to the pharmacist or pharmacy
2 that dispensed the drug or device.

3 (d) A pharmacy benefit manager shall reimburse a pharmacist
4 or pharmacy under contract with the pharmacy benefit manager a
5 professional dispensing fee for a prescription drug or device in an
6 amount that is not less than the amount of the dispensing fee paid
7 for the drug or device under the Medicaid fee-for-service model.

8 Sec. 1369.375. APPEAL: PROCEDURES REQUIRED. (a) A
9 pharmacy benefit manager shall provide in the contract with each
10 pharmacist or pharmacy a procedure for the pharmacist or pharmacy
11 to appeal a reimbursement of a prescription drug or device that the
12 pharmacist or pharmacy alleges to not be in compliance with Section
13 1369.374 on or before the seventh day after the date the
14 reimbursement is provided.

15 (b) The appeal procedure provision must:

16 (1) be approved by the commissioner; and

17 (2) permit a pharmacist or pharmacy or the
18 pharmacist's or pharmacy's designated agent to file an appeal using
19 the standard appeal form described by Subsection (d).

20 (c) A pharmacy benefit manager shall file an appeal
21 procedure provision with the department in the form and manner
22 prescribed by the commissioner.

23 (d) The commissioner shall develop and make available to
24 pharmacy benefit managers a standard appeal form to be used to file
25 an appeal of a reimbursement alleged to not be in compliance with
26 Section 1369.374.

27 Sec. 1369.376. APPEAL: PHARMACIST OR PHARMACY AGENT. A

1 pharmacist or pharmacy electing to appeal a reimbursement under a
2 procedure described by Section 1369.375 may designate a pharmacy
3 services administrative organization or another agent to file and
4 conduct the appeal.

5 Sec. 1369.377. APPEAL: EFFECT OF PHARMACIST OR PHARMACY
6 PREVAILING. (a) In this section, "similarly situated pharmacist
7 or pharmacy" means a pharmacist or pharmacy:

8 (1) that is under contract with the pharmacy benefit
9 manager;

10 (2) that purchases the prescription drug or device
11 that is the subject of an appeal of a reimbursement not in
12 compliance with Section 1369.374 from the same pharmaceutical
13 wholesaler as the pharmacist or pharmacy that prevailed in the
14 appeal; and

15 (3) to which the pharmacy benefit manager also applies
16 the challenged reimbursement rate or actual cost for the
17 prescription drug or device.

18 (b) If a pharmacist or pharmacy prevails in an appeal of a
19 reimbursement alleged to not be in compliance with Section
20 1369.374, the pharmacy benefit manager shall, not later than the
21 seventh day after the date the pharmacist or pharmacy prevailed:

22 (1) make the necessary change to the challenged
23 reimbursement or actual cost;

24 (2) if the product involved in the appeal is a
25 prescription drug, provide the pharmacist or pharmacy the national
26 drug code number for the drug;

27 (3) permit the pharmacist or pharmacy to reverse and

1 rebill the claim that is the subject of the appeal;

2 (4) pay or waive any transaction fee required to
3 reverse or rebill the claim;

4 (5) reimburse the pharmacist or pharmacy at least the
5 pharmacist's or pharmacy's actual cost for the prescription drug or
6 device; and

7 (6) apply the findings from the appeal to the
8 reimbursement rate and actual cost for the prescription drug or
9 device that is the subject of the appeal to other similarly situated
10 pharmacists and pharmacies.

11 Sec. 1369.378. APPEAL: EFFECT OF PHARMACY BENEFIT MANAGER
12 PREVAILING. (a) If a pharmacy benefit manager prevails in an
13 appeal of a reimbursement alleged to not be in compliance with
14 Section 1369.374 and the prescription drug or device that is the
15 subject of the appeal is available at a cost equal to or less than
16 the challenged reimbursement, the pharmacy benefit manager shall,
17 not later than the seventh day after the date the pharmacy benefit
18 manager prevails:

19 (1) provide the pharmacist or pharmacy with the name
20 of the national or regional pharmaceutical wholesaler operating in
21 this state that has the drug or device in stock at a price that is
22 equal to or less than the challenged reimbursement; and

23 (2) as applicable, provide the national drug code
24 number for the drug or the unique device identifier for the device.

25 (b) If a pharmacy benefit manager fails to comply with
26 Subsection (a), the pharmacy benefit manager shall:

27 (1) adjust the challenged reimbursement to an amount

1 equal to or greater than the pharmacist's or pharmacy's actual cost;

2 (2) permit the pharmacist or pharmacy to reverse and

3 rebill each claim affected by the inability to obtain the drug or

4 device at a cost equal to or less than the challenged reimbursement;

5 and

6 (3) pay or waive any transaction fee required to

7 reverse and rebill each affected claim.

8 SECTION 2. Subchapter H-1, Chapter 1369, Insurance Code, as
9 added by this Act, applies only to a health benefit plan delivered,
10 issued for delivery, or renewed on or after January 1, 2026.

11 SECTION 3. This Act takes effect September 1, 2025.