

By: Hefner

H.B. No. 3317

A BILL TO BE ENTITLED

AN ACT

relating to the relationship between pharmacists or pharmacies and health benefit plan issuers or pharmacy benefit managers.

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

SECTION 1. Section 1369.153, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The commissioner by rule shall require a health benefit plan that provides pharmacy benefits to enrollees to include on the front of the identification card of each enrollee a unique identifier that enables a pharmacist or pharmacy to determine when submitting a claim that the enrollee's health benefit plan or pharmacy benefit plan is subject to regulation by the department. For purposes of this subsection, the commissioner may require a unique bank identification number, processor control number, or group number.

SECTION 2. Section 1369.252, Insurance Code, is amended to read as follows:

Sec. 1369.252. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to an issuer or provider of health benefits under or a pharmacy benefit manager administering pharmacy benefits under:

- (1) the state Medicaid program;
- (2) the federal Medicare program;
- (3) the state child health plan or health benefits

1 plan for children under Chapter 62 or 63, Health and Safety Code;

2 (4) the TRICARE military health system; or

3 (5) a workers' compensation insurance policy or other
4 form of providing medical benefits under Title 5, Labor Code [~~;~~ ~~or~~

5 ~~[(6) a self-funded health benefit plan as defined by~~
6 ~~the Employee Retirement Income Security Act of 1974 (29 U.S.C.~~
7 ~~Section 1001 et seq.)].~~

8 SECTION 3. The heading to Section 1369.259, Insurance Code,
9 is amended to read as follows:

10 Sec. 1369.259. LIMITATIONS ON PAYMENT ADJUSTMENTS AND
11 [~~CALCULATION OF~~] RECOUPMENT; USE OF EXTRAPOLATION PROHIBITED.

12 SECTION 4. Section 1369.259, Insurance Code, is amended by
13 adding Subsections (a-1) and (e) to read as follows:

14 (a-1) A health benefit plan issuer or pharmacy benefit
15 manager may not, as the result of an audit, deny or reduce a claim
16 payment made to a pharmacist or pharmacy after adjudication of the
17 claim unless:

18 (1) the original claim was submitted fraudulently;

19 (2) the original claim payment was incorrect because
20 the pharmacist or pharmacy had already been paid for the pharmacist
21 service; or

22 (3) the pharmacist or pharmacy made a substantive
23 non-clerical or non-recordkeeping error that led to the patient
24 receiving the wrong prescription drug or dosage.

25 (e) Except for a claim described by Subsection (a-1), a
26 health benefit plan issuer or pharmacy benefit manager:

27 (1) may only recoup the dispensing fee paid by the

1 health benefit plan issuer or pharmacy benefit manager to the
2 pharmacist or pharmacy associated with the audited claim; and

3 (2) may not recoup from the pharmacist or pharmacy the
4 cost of the drug or any other amount related to the claim.

5 SECTION 5. Subchapter M, Chapter 1369, Insurance Code, is
6 amended by adding Sections 1369.6021, 1369.6022, 1369.6023,
7 1369.6024, and 1369.6025 to read as follows:

8 Sec. 1369.6021. ONLINE ACCESS TO PHARMACY BENEFIT NETWORK
9 CONTRACT. A health benefit plan issuer or pharmacy benefit manager
10 shall make available to any pharmacist or pharmacy in the issuer's
11 or manager's pharmacy benefit network access to a secure, online
12 portal through which the pharmacist or pharmacy may access all
13 pharmacy benefit network contracts between the health benefit plan
14 issuer or pharmacy benefit manager and the pharmacist or pharmacy,
15 including any contract addendums.

16 Sec. 1369.6022. PHARMACY BENEFIT NETWORK CONTRACT
17 MODIFICATIONS AND ADDENDUMS. (a) A pharmacist or pharmacy must
18 have an opportunity to refuse a proposed modification or addendum
19 to a pharmacy benefit network contract. A proposed modification or
20 addendum may not take effect without the signed approval of the
21 pharmacist or pharmacy.

22 (b) A health benefit plan issuer or pharmacy benefit manager
23 must, not later than the 90th day before the date a proposed
24 modification or addendum to a pharmacy benefit network contract is
25 to take effect:

26 (1) post the proposed modification or addendum to the
27 online portal described by Section 1369.6021; and

1 (2) provide to the pharmacist or pharmacy notice of
2 the proposed modification or addendum by e-mail, including:

3 (A) a link to the online portal;

4 (B) the National Council for Prescription Drug
5 Programs number or other identifier approved by the commissioner
6 for the pharmacist or pharmacy to which the proposed modification
7 or addendum applies; and

8 (C) a description of the proposed modification or
9 addendum in a manner that allows the pharmacist or pharmacy to
10 compare the proposed modification or addendum to the current
11 contract.

12 (c) A pharmacy benefit network contract may not incorporate
13 by reference a document not included in a contract or contract
14 attachment, including a provider manual. All financial terms,
15 including reimbursement rates and methodology, must be set forth in
16 the contract.

17 Sec. 1369.6023. PHARMACY BENEFIT NETWORK CONTRACT
18 DISCLOSURE. A pharmacy benefit network contract must state that
19 the contract is subject to this chapter and any rules adopted by the
20 commissioner under this chapter.

21 Sec. 1369.6024. PHARMACY BENEFIT NETWORK CONTRACT FEE
22 LIMITATIONS. (a) A health benefit plan issuer or pharmacy benefit
23 manager may not charge a fee, including an application or
24 participation fee, before providing a pharmacist or pharmacy with
25 the full proposed pharmacy benefit network contract, including any
26 financial terms applicable to the contract and corresponding
27 pharmacy benefit network.

1 (b) A health benefit plan issuer or pharmacy benefit manager
2 may not charge a pharmacist or pharmacy already participating in
3 the pharmacy benefit network a fee related to re-credentialing or
4 re-enrollment or a similar fee.

5 Sec. 1369.6025. PHARMACY BENEFIT NETWORK PARTICIPATION
6 REQUIREMENTS PROHIBITED. A health benefit plan issuer or pharmacy
7 benefit manager may not:

8 (1) require a pharmacist or pharmacy to participate in
9 a pharmacy benefit network;

10 (2) condition a pharmacist's or pharmacy's
11 participation in a pharmacy benefit network on participation in any
12 other pharmacy benefit network; or

13 (3) penalize a pharmacist or pharmacy for refusing to
14 participate in a pharmacy benefit network.

15 SECTION 6. Section 1369.605, Insurance Code, is amended to
16 read as follows:

17 Sec. 1369.605. NETWORK CONTRACT FEE SCHEDULE. A pharmacy
18 benefit network contract must include [~~specify or reference~~] a
19 [~~separate~~] fee schedule. [~~Unless otherwise available in the~~
20 ~~contract, the fee schedule must be provided electronically in an~~
21 ~~easily accessible and complete spreadsheet format and, on request,~~
22 ~~in writing to each contracted pharmacist and pharmacy.~~] The fee
23 schedule must describe:

24 (1) specific services or procedures that the
25 pharmacist or pharmacy may deliver and the amount of the
26 corresponding payment;

27 (2) a methodology for calculating the amount of the

1 payment based on a published fee schedule; or

2 (3) any other reasonable manner that provides an
3 ascertainable amount for payment for services.

4 SECTION 7. Section 1369.259(d), Insurance Code, is
5 repealed.

6 SECTION 8. (a) Section 1369.153, Insurance Code, as
7 amended by this Act, applies only to a health benefit plan
8 delivered, issued for delivery, or renewed on or after January 1,
9 2026. A health benefit plan delivered, issued for delivery, or
10 renewed before January 1, 2026, is governed by the law as it existed
11 immediately before the effective date of this Act, and that law is
12 continued in effect for that purpose.

13 (b) Chapter 1369, Insurance Code, as amended by this Act,
14 applies only to a contract entered into or renewed on or after the
15 effective date of this Act. A contract entered into or renewed
16 before the effective date of this Act is governed by the law as it
17 existed immediately before the effective date of this Act, and that
18 law is continued in effect for that purpose.

19 SECTION 9. This Act takes effect September 1, 2025.