

1-1 By: Hughes, Blanco S.B. No. 1236
1-2 (In the Senate - Filed February 12, 2025;
1-3 February 28, 2025, read first time and referred to Committee on
1-4 Health & Human Services; April 14, 2025, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays
1-6 0; April 14, 2025, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Kolkhorst	X		
1-10	Perry	X		
1-11	Blanco	X		
1-12	Cook	X		
1-13	Hall	X		
1-14	Hancock	X		
1-15	Hughes	X		
1-16	Miles	X		
1-17	Sparks	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1236 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the relationship between pharmacists or pharmacies and
1-22 health benefit plan issuers or pharmacy benefit managers.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 1369.153, Insurance Code, is amended by
1-25 adding Subsection (e) to read as follows:

1-26 (e) A group number on an identification card provided to an
1-27 enrollee in a health benefit plan to which this subchapter applies
1-28 may be assigned only to enrollees in a health benefit plan to which
1-29 this subchapter applies.

1-30 SECTION 2. The heading to Section 1369.259, Insurance Code,
1-31 is amended to read as follows:

1-32 Sec. 1369.259. LIMITATIONS ON PAYMENT ADJUSTMENTS AND
1-33 [CALCULATION OF] RECOUPMENT; USE OF EXTRAPOLATION PROHIBITED.

1-34 SECTION 3. Section 1369.259, Insurance Code, is amended by
1-35 adding Subsections (a-1), (e), and (f) to read as follows:

1-36 (a-1) Subject to Subsections (e) and (f), a health benefit
1-37 plan issuer or pharmacy benefit manager may not, as the result of an
1-38 audit, deny or reduce a claim payment made to a pharmacist or
1-39 pharmacy after adjudication of the claim.

1-40 (e) A health benefit plan issuer or pharmacy benefit manager
1-41 may recoup from a pharmacist or pharmacy the cost of a prescription
1-42 drug and the dispensing fee for the drug if:

1-43 (1) the original claim was submitted fraudulently;

1-44 (2) the original claim payment was incorrect because
1-45 the pharmacist or pharmacy had already been paid for the pharmacist
1-46 service; or

1-47 (3) the pharmacist or pharmacy made a substantive
1-48 nonclerical or non-recordkeeping error that led to the patient
1-49 receiving the wrong prescription drug or dosage.

1-50 (f) A health benefit plan issuer or pharmacy benefit manager
1-51 may recoup only the dispensing fee from a pharmacist or pharmacy if
1-52 the pharmacist or pharmacy made a clerical error that led to an
1-53 overpayment.

1-54 SECTION 4. Subchapter M, Chapter 1369, Insurance Code, is
1-55 amended by adding Sections 1369.6021, 1369.6022, 1369.6023,
1-56 1369.6024, 1369.6025, 1369.6026, and 1369.6027 to read as follows:

1-57 Sec. 1369.6021. ONLINE ACCESS TO PHARMACY BENEFIT NETWORK
1-58 CONTRACT. A health benefit plan issuer or pharmacy benefit manager
1-59 shall make available to any pharmacist or pharmacy in the issuer's
1-60 or manager's pharmacy benefit network access to a secure, online

2-1 portal through which the pharmacist or pharmacy may access all
2-2 pharmacy benefit network contracts between the health benefit plan
2-3 issuer or pharmacy benefit manager and the pharmacist or pharmacy,
2-4 including any contract addendums.
2-5 Sec. 1369.6022. PHARMACY BENEFIT NETWORK CONTRACT: ADVERSE
2-6 MATERIAL CHANGES. (a) In this section, "adverse material change"
2-7 means a modification or addendum to a pharmacy benefit network
2-8 contract that would decrease a pharmacist's or pharmacy's payment
2-9 or compensation, change the pharmacist's or pharmacy's tier to a
2-10 less preferred tier, or change the administrative procedures in a
2-11 way that may reasonably be expected to increase the pharmacist's or
2-12 pharmacy's administrative expenses or decrease the pharmacist's or
2-13 pharmacy's payment or compensation. The term does not include:
2-14 (1) a decrease in payment or compensation resulting
2-15 solely from a change in a published governmental fee schedule on
2-16 which the payment or compensation is based if the applicability of
2-17 the schedule is clearly identified in the contract;
2-18 (2) a decrease in payment or compensation that was
2-19 anticipated under the terms of the contract, if the amount and date
2-20 of applicability of the decrease is clearly identified in the
2-21 contract;
2-22 (3) an administrative change that may increase the
2-23 pharmacist's or pharmacy's administrative expenses, the specific
2-24 applicability of which is clearly identified in the contract;
2-25 (4) a change that is required by federal or state law;
2-26 (5) a termination for cause; or
2-27 (6) a termination without cause at the end of the term
2-28 of the contract.
2-29 (b) A health benefit plan issuer or pharmacy benefit manager
2-30 may make an adverse material change to a pharmacy benefit network
2-31 contract during the term of the contract only with the mutual
2-32 agreement of the parties. A provision in the contract that allows a
2-33 health benefit plan issuer or pharmacy benefit manager to
2-34 unilaterally make an adverse material change during the term of the
2-35 contract is void and unenforceable.
2-36 (c) An adverse material change to a pharmacy benefit network
2-37 contract may not go into effect until the 120th day after the date
2-38 the pharmacist or pharmacy affirmatively agrees to the adverse
2-39 material change in writing.
2-40 (d) An adverse material change to a pharmacy benefit network
2-41 contract proposed by a health benefit plan issuer or pharmacy
2-42 benefit manager must include notice that clearly and conspicuously
2-43 states that a pharmacist or pharmacy may choose to not agree to the
2-44 adverse material change and that the decision to not agree to the
2-45 adverse material change does not affect:
2-46 (1) the terms of the pharmacist's or pharmacy's
2-47 existing contract with the health benefit plan issuer or pharmacy
2-48 benefit manager; or
2-49 (2) the pharmacist's or pharmacy's participation in
2-50 another pharmacy benefit network.
2-51 (e) A pharmacist's or pharmacy's decision to not agree to an
2-52 adverse material change to a pharmacy benefit network contract does
2-53 not affect:
2-54 (1) the terms of the pharmacist's or pharmacy's
2-55 existing contract; or
2-56 (2) the pharmacist's or pharmacy's participation in
2-57 another pharmacy benefit network.
2-58 (f) A health benefit plan issuer's or pharmacy benefit
2-59 manager's failure to include the notice described by Subsection (d)
2-60 with the proposed adverse material change makes an otherwise
2-61 agreed-to adverse material change void and unenforceable.
2-62 (g) This section does not apply to:
2-63 (1) a pharmacy benefit network contract:
2-64 (A) with an unspecified and indefinite duration;
2-65 (B) with no stated or automatic renewal period or
2-66 event; and
2-67 (C) that may only be terminated by notice from
2-68 one party to the other; or
2-69 (2) a proposed modification or addendum to a pharmacy

3-1 benefit network contract that is required by state or federal law or
3-2 rule.

3-3 Sec. 1369.6023. PHARMACY BENEFIT NETWORK CONTRACT: OTHER
3-4 MODIFICATIONS AND ADDENDUMS. (a) A health benefit plan issuer or
3-5 pharmacy benefit manager must, not later than the 90th day before
3-6 the date a proposed modification or addendum to a pharmacy benefit
3-7 network contract, other than an adverse material change as defined
3-8 by Section 1369.6022, is to take effect:

3-9 (1) post the proposed modification or addendum to the
3-10 online portal described by Section 1369.6021; and

3-11 (2) provide to the pharmacist or pharmacy notice of
3-12 the proposed modification or addendum by e-mail, including:

3-13 (A) a link to the online portal;

3-14 (B) the National Council for Prescription Drug
3-15 Programs number or other identifier approved by the commissioner
3-16 for the pharmacist or pharmacy to which the proposed modification
3-17 or addendum applies; and

3-18 (C) a description of the proposed modification or
3-19 addendum in a manner that allows the pharmacist or pharmacy to
3-20 compare the proposed modification or addendum to the current
3-21 contract.

3-22 (b) If a pharmacist or pharmacy does not respond before the
3-23 31st day after the date the pharmacist or pharmacy receives notice
3-24 of a proposed modification or addendum under Subsection (a), the
3-25 health benefit plan issuer or pharmacy benefit manager may consider
3-26 the proposed modification or addendum approved by the pharmacist or
3-27 pharmacy and the modification or addendum takes effect on the date
3-28 described by Subsection (a).

3-29 (c) A pharmacy benefit network contract may not incorporate
3-30 by reference a document not included in a contract or contract
3-31 attachment, including a provider manual described by Section
3-32 1369.6025. All financial terms, including reimbursement rates and
3-33 methodology, must be set forth in the contract.

3-34 (d) This section does not apply to:

3-35 (1) a pharmacy benefit network contract:

3-36 (A) with an unspecified and indefinite duration;

3-37 (B) with no stated or automatic renewal period or
3-38 event; and

3-39 (C) that may only be terminated by notice from
3-40 one party to the other; or

3-41 (2) a proposed modification or addendum to a pharmacy
3-42 benefit network contract that is required by state or federal law or
3-43 rule.

3-44 Sec. 1369.6024. PHARMACY BENEFIT NETWORK CONTRACT
3-45 DISCLOSURE. A pharmacy benefit network contract must state that
3-46 the contract is subject to this chapter and any rules adopted by the
3-47 commissioner under this chapter.

3-48 Sec. 1369.6025. PROVIDER MANUAL DISCLOSURE. A health
3-49 benefit plan issuer or pharmacy benefit manager shall:

3-50 (1) make a provider manual readily available on the
3-51 online portal described by Section 1369.6021; and

3-52 (2) post a modification or addendum to the provider
3-53 manual to the online portal in the same manner as a contract
3-54 modification or addendum under Section 1369.6023(a).

3-55 Sec. 1369.6026. PHARMACY BENEFIT NETWORK CONTRACT FEE
3-56 LIMITATIONS. A health benefit plan issuer or pharmacy benefit
3-57 manager may not charge a fee, including an application or
3-58 participation fee, before providing a pharmacist or pharmacy with
3-59 the full proposed pharmacy benefit network contract, including any
3-60 financial terms applicable to the contract and corresponding
3-61 pharmacy benefit network.

3-62 Sec. 1369.6027. PHARMACY BENEFIT NETWORK PARTICIPATION
3-63 REQUIREMENTS PROHIBITED. A health benefit plan issuer or pharmacy
3-64 benefit manager may not:

3-65 (1) require a pharmacist or pharmacy to participate in
3-66 a pharmacy benefit network;

3-67 (2) condition a pharmacist's or pharmacy's
3-68 participation in a pharmacy benefit network on participation in any
3-69 other pharmacy benefit network; or

4-1 (3) penalize a pharmacist or pharmacy for refusing to
4-2 participate in a pharmacy benefit network.

4-3 SECTION 5. Section 1369.605, Insurance Code, is amended to
4-4 read as follows:

4-5 Sec. 1369.605. NETWORK CONTRACT FEE SCHEDULE. A pharmacy
4-6 benefit network contract must include [~~specify or reference~~] a
4-7 [~~separate~~] fee schedule. [~~Unless otherwise available in the~~
4-8 ~~contract, the fee schedule must be provided electronically in an~~
4-9 ~~easily accessible and complete spreadsheet format and, on request,~~
4-10 ~~in writing to each contracted pharmacist and pharmacy.~~] The fee
4-11 schedule must describe:

4-12 (1) specific services or procedures that the
4-13 pharmacist or pharmacy may deliver and the amount of the
4-14 corresponding payment;

4-15 (2) a methodology for calculating the amount of the
4-16 payment based on a published fee schedule; or

4-17 (3) any other reasonable manner that provides an
4-18 ascertainable amount for payment for services.

4-19 SECTION 6. Section 1369.259(d), Insurance Code, is
4-20 repealed.

4-21 SECTION 7. (a) Section 1369.153, Insurance Code, as
4-22 amended by this Act, applies only to a health benefit plan
4-23 delivered, issued for delivery, or renewed on or after January 1,
4-24 2026. A health benefit plan delivered, issued for delivery, or
4-25 renewed before January 1, 2026, is governed by the law as it existed
4-26 immediately before the effective date of this Act, and that law is
4-27 continued in effect for that purpose.

4-28 (b) Chapter 1369, Insurance Code, as amended by this Act,
4-29 applies only to a contract entered into or renewed on or after the
4-30 effective date of this Act. A contract entered into or renewed
4-31 before the effective date of this Act is governed by the law as it
4-32 existed immediately before the effective date of this Act, and that
4-33 law is continued in effect for that purpose.

4-34 SECTION 8. This Act takes effect September 1, 2025.

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