

HOUSE BILL No. 1100

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8-13; IC 27-8; IC 27-13.

Synopsis: Pharmacy coverage terms. Prohibits certain requirements related to pharmaceutical coverage at a community retail pharmacy or a mail order or Internet based pharmacy. Specifies requirements that apply to terms and conditions of a contract entered into by a pharmacy to participate in a health care provider network.

Effective: July 1, 2013.

Davisson

January 8, 2013, read first time and referred to Committee on Insurance.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1100



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10-8-13, AS AMENDED BY P.L.2-2007,
- 2 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2013]: Sec. 13. (a) As used in this section, "covered
- 4 individual" means an individual who is entitled to coverage under an
- 5 employee health benefit plan.
- 6 (b) As used in this section, "employee health benefit plan" means a
- 7 group plan of self-insurance, policy, or contract that:
- 8 (1) provides coverage for prescription drugs; and
- 9 (2) is established, purchased, or entered into by an employer for
- 10 the benefit of the employer's employees.
- 11 (c) As used in this section, "employer" means the following:
- 12 (1) A public employer.
- 13 (2) A state educational institution.
- 14 (d) As used in this section, "mail order or Internet based pharmacy"
- 15 has the meaning set forth in IC 25-26-18-1.
- 16 (e) An employee health benefit plan that provides coverage for
- 17 prescription drugs may designate a mail order or an Internet based



1 pharmacy to provide prescription drugs to a covered individual.

2 (f) An employee health benefit plan may not **do any of the**
3 **following:**

4 (1) Require a covered individual to obtain a prescription drug
5 from a pharmacy designated under subsection (e) as a condition
6 of coverage.

7 (2) **Impose on a covered individual who uses a community**
8 **retail pharmacy a copayment, deductible, or other cost**
9 **sharing requirement or a prior authorization requirement**
10 **that is different from a copayment, deductible, cost sharing**
11 **requirement, or prior authorization requirement that applies**
12 **to a covered individual who uses a pharmacy designated**
13 **under subsection (e).**

14 (3) **Impose on a covered individual who uses a community**
15 **retail pharmacy a:**

16 (A) **minimum or maximum requirement on the quantity of**
17 **a medication dispensed; or**

18 (B) **limitation on the:**

19 (i) **number of refills; or**

20 (ii) **duration of time for which a prescription is valid for**
21 **refills;**

22 **that is different from a requirement or limitation imposed on**
23 **a covered individual who uses a pharmacy designated under**
24 **subsection (e).**

25 (4) **Subject a covered individual who uses a community retail**
26 **pharmacy to an administrative requirement that is not**
27 **imposed on a covered individual who uses a pharmacy**
28 **designated under subsection (e), including a requirement to**
29 **express an intent or exercise an option concerning use of a**
30 **particular pharmacy or type of pharmacy as a condition of**
31 **having a medication dispensed by a community retail**
32 **pharmacy.**

33 (5) **Impose a term, condition, or requirement that materially**
34 **or unreasonably interferes with or impairs the ability of a**
35 **covered individual to obtain medications from a pharmacy of**
36 **the covered individual's choice.**

37 SECTION 2. IC 27-8-11-12 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2013]: **Sec. 12. (a) As used in this section, "insurer" includes:**

40 (1) **a pharmacy benefit manager; and**

41 (2) **an administrator that is licensed under IC 27-1-25.**

42 (b) **As used in this section, "pharmacy" means a pharmacy that**

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1 is licensed as required by IC 25-26, including a mail order or
2 Internet based pharmacy.

3 (c) The terms and conditions of an agreement between an
4 insurer and a pharmacy under section 3 of this chapter must
5 comply with this section.

6 (d) An insurer shall not use information concerning a particular
7 pharmacy's medication dispensing practices to promote, advertise,
8 or encourage an insured's use of a pharmacy that has entered into
9 an agreement with the insurer under section 3 of this chapter.

10 (e) An insurer shall, in establishing terms and conditions for
11 payment for pharmacy products and services, consider the
12 standards established by the federal Centers for Medicare and
13 Medicaid Services of the federal Department of Health and Human
14 Services.

15 (f) An insurer shall establish terms and conditions for payment
16 for pharmacy products and services that provide payment to a
17 community retail pharmacy that is not less than payment to any
18 other pharmacy, including any amount of a rebate, discount,
19 allowance, or other incentive payment that is:

- 20 (1) received by a pharmacy or an affiliate of a pharmacy; and
- 21 (2) not based on the fair value of services provided in
22 exchange for the rebate, discount, allowance, or other
23 incentive payment.

24 (g) A violation of this section is an unfair or deceptive act in the
25 business of insurance under IC 27-4-1-4.

26 SECTION 3. IC 27-8-31.2-5 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) An insurer that
28 provides coverage for prescription drugs may designate a mail order or
29 an Internet based pharmacy to provide prescription drugs to an insured.

30 (b) An insurer may not **do any of the following**:

- 31 (1) Require an insured to obtain a prescription drug from a
32 pharmacy designated under subsection (a) as a condition of
33 coverage.
- 34 (2) Impose on an insured who uses a community retail
35 pharmacy a copayment, deductible, or other cost sharing
36 requirement or a prior authorization requirement that is
37 different from a copayment, deductible, cost sharing
38 requirement, or prior authorization requirement that applies
39 to an insured who uses a pharmacy designated under
40 subsection (a).
- 41 (3) Impose on an insured who uses a community retail
42 pharmacy a:

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1 (A) minimum or maximum requirement on the quantity of
2 a medication dispensed; or

3 (B) limitation on the:

4 (i) number of refills; or

5 (ii) duration of time for which a prescription is valid for
6 refills;

7 that is different from a requirement or limitation imposed on
8 an insured who uses a pharmacy designated under subsection
9 (a).

10 (4) Subject an insured who uses a community retail pharmacy
11 to an administrative requirement that is not imposed on an
12 insured who uses a pharmacy designated under subsection (a),
13 including a requirement to express an intent or exercise an
14 option concerning use of a particular pharmacy or type of
15 pharmacy as a condition of having a medication dispensed by
16 a community retail pharmacy.

17 (5) Impose a term, condition, or requirement that materially
18 or unreasonably interferes with or impairs the ability of an
19 insured to obtain medications from a pharmacy of the
20 insured's choice.

21 SECTION 4. IC 27-13-15-6 IS ADDED TO THE INDIANA CODE
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2013]: Sec. 6. (a) As used in this section, "health maintenance
24 organization" includes the following:

25 (1) A limited service health maintenance organization.

26 (2) A person that pays or administers claims on behalf of a
27 health maintenance organization or a limited service health
28 maintenance organization, including a pharmacy benefit
29 manager.

30 (b) As used in this section, "pharmacy" means a pharmacy that
31 is licensed as required by IC 25-26, including a mail order or
32 Internet based pharmacy.

33 (c) The terms and conditions of a contract between a health
34 maintenance organization and a pharmacy for the pharmacy to
35 serve as a participating provider must comply with this section.

36 (d) A health maintenance organization shall not use information
37 concerning a particular pharmacy's medication dispensing
38 practices to promote, advertise, or encourage an enrollee's use of
39 a pharmacy that has entered into an agreement with the health
40 maintenance organization to serve as a participating provider.

41 (e) A health maintenance organization shall, in establishing
42 terms and conditions related to payment for pharmacy products

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1 and services, consider the standards established by the federal
 2 Centers for Medicare and Medicaid Services of the federal
 3 Department of Health and Human Services.

4 (f) A health maintenance organization shall establish terms and
 5 conditions for payment for pharmacy products and services that
 6 provide payment to a community retail pharmacy that is not less
 7 than payment to any other pharmacy, including any amount of a
 8 rebate, discount, allowance, or other incentive payment that is:

- 9 (1) received by a pharmacy or an affiliate of a pharmacy; and
 10 (2) not based on the fair value of services provided in
 11 exchange for the rebate, discount, allowance, or other
 12 incentive payment.

13 (g) A violation of this section is an unfair or deceptive act in the
 14 business of insurance under IC 27-4-1-4.

15 SECTION 5. IC 27-13-37.5-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A health
 17 maintenance organization may designate, under an individual contract
 18 or a group contract that provides coverage for prescription drugs, a
 19 mail order or an Internet based pharmacy to provide prescription drugs
 20 to an enrollee.

21 (b) A health maintenance organization may not **do any of the**
 22 **following:**

23 (1) Require an enrollee to obtain a prescription drug from a
 24 pharmacy designated under subsection (a) as a condition of
 25 coverage.

26 (2) Impose on an enrollee who uses a community retail
 27 pharmacy a copayment, deductible, or other cost sharing
 28 requirement or a prior authorization requirement that is
 29 different from a copayment, deductible, cost sharing
 30 requirement, or prior authorization requirement that applies
 31 to an enrollee who uses a pharmacy designated under
 32 subsection (a).

33 (3) Impose on an enrollee who uses a community retail
 34 pharmacy a:

35 (A) minimum or maximum requirement on the quantity of
 36 a medication dispensed; or

37 (B) limitation on the:

38 (i) number of refills; or

39 (ii) duration of time for which a prescription is valid for
 40 refills;

41 that is different from a requirement or limitation imposed on
 42 an enrollee who uses a pharmacy designated under subsection

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- (a).**
- (4) Subject an enrollee who uses a community retail pharmacy to an administrative requirement that is not imposed on an enrollee who uses a pharmacy designated under subsection (a), including a requirement to express an intent or exercise an option concerning use of a particular pharmacy or type of pharmacy as a condition of having a medication dispensed by a community retail pharmacy.**
- (5) Impose a term, condition, or requirement that materially or unreasonably interferes with or impairs the ability of an enrollee to obtain medications from a pharmacy of the enrollee's choice.**

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