

SENATE BILL No. 103
Proposed Amendments

AN ACT concerning pharmacy benefits managers; amending K.S.A. 2014 Supp. 40-3822 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act:

- (a) "List" means the list of drugs for which maximum allowable costs have been established;
- (b) "Maximum allowable cost" means the maximum amount that a pharmacy benefits manager will reimburse a pharmacy for the cost of a generic drug;
- (c) "Network pharmacy" means a pharmacy that contracts with a pharmacy benefits manager; and
- (d) "Pharmacy benefits manager" shall have the same meaning as K.S.A. 2014 Supp. 40-3822(e).

New Section 2.

(a) A pharmacy benefits manager:

1. May not place a drug on a MAC list unless:
 - i. The drug is listed as "A" or "B" rated in the most recent version of the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the orange Book or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and
 - ii. The drug is generally available for purchase by pharmacies in the state from a national or regional wholesaler and the drug is not obsolete.
2. Shall provide to each network pharmacy at the beginning of the term of a contract and upon request thereafter, the sources utilized to determine the maximum allowable cost price.
3. Shall provide a process for each network pharmacy provider to readily access the maximum allowable price specific to that provider.
4. Shall review and update each applicable maximum allowable cost list every seven (7) business days and apply the updates to reimbursements no later than one (1) business day.
5. Shall ensure that dispensing fees are not included in the calculation of maximum allowable cost.
6. Shall establish a process by which a network pharmacy may appeal reimbursement for a drug subject to maximum allowable cost as follows:
 - i. The network pharmacy must file an appeal no later than ten (10) business days after the fill date.

- ii. The PBM shall provide a response to the appealing network pharmacy no later than ten (10) business days after receiving an appeal request containing information sufficient for the PBM to process the appeal as specified by the contract.
- iii. If the appeal is upheld the PBM:
 1. Shall make the adjustment in the drug price effective no later than one (1) business day after the appeal is resolved; and
 2. Make the adjustment applicable to all similarly situated network pharmacy providers, as determined by the plan sponsor or pharmacy benefits manager, as appropriate.
 3. Permit the appealing pharmacy to reverse and rebill the appealed claim.
- iv. If the appeal is denied the PBM shall provide the appealing pharmacy the National Drug Code number from a national or regional wholesaler operating in Kansas where the drug is generally available for purchase at a price equal to or less than the maximum allowable cost that may be substituted lawfully.

Section 3. K.S.A. 2014 Supp. 40-3822 is hereby repealed.

Section 4. This act shall take effect and be in force from and after its publication in the statute book.