

SENATE BILL NO. 369—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to increasing the cost of prescription drugs under a pharmacy benefits plan. (BDR 57-735)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to prescription drugs; prohibiting a pharmacy benefit manager or manufacturer from increasing the effective price of a prescription drug for a pharmacy benefits plan during the plan year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a pharmacy benefit manager has a fiduciary duty to a third party for which the pharmacy benefit manager has entered into a contract to manage the pharmacy benefits plan of the third party. (NRS 683A.178) **Sections 1 and 2** of this bill prohibit a pharmacy benefit manager or the manufacturer of a prescription drug from increasing the effective price of the prescription drug for a pharmacy benefits plan during the plan year. **Section 1** of this bill defines the term “plan year” to mean the year designated in the evidence of coverage of a pharmacy benefits plan in which a person is covered by such plan.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 683A.179 is hereby amended to read as follows:

683A.179 1. A pharmacy benefit manager shall not:
(a) Prohibit a pharmacist or pharmacy from providing information to a covered person concerning the amount of any copayment or coinsurance for a prescription drug or informing a



covered person concerning the clinical efficacy of a less expensive alternative drug;

(b) Penalize a pharmacist or pharmacy for providing the information described in paragraph (a) or selling a less expensive alternative drug to a covered person;

(c) Prohibit a pharmacy from offering or providing delivery services directly to a covered person as an ancillary service of the pharmacy; ~~for~~

(d) If the pharmacy benefit manager manages a pharmacy benefits plan that provides coverage through a network plan, charge a copayment or coinsurance for a prescription drug in an amount that is greater than the total amount paid to a pharmacy that is in the network of providers under contract with the third party ~~for~~; or

(e) Increase the effective price of a prescription drug for a pharmacy benefits plan during a plan year, but may increase the effective price at the beginning of the next plan year in accordance with an agreement entered into with the issuer of the pharmacy benefits plan.

2. Any provision of a contract between a pharmacy benefit manager and the issuer of a pharmacy benefits plan that conflicts with paragraph (e) of subsection 1 is void.

3. As used in this section ~~for~~, “network”:

(a) “Effective price” means, with regard to a pharmacy benefits plan, the total amount paid for a prescription drug by the issuer of the pharmacy benefits plan and a covered person, less the amount of any rebate provided to such persons. If the pharmacy benefits plan provides coverage through a network plan, the effective price must be determined using amounts that apply when the drug is obtained from a pharmacy that is in the network of providers under contract with the issuer of the pharmacy benefits plan.

(b) “Network plan” means a health benefit plan offered by a health carrier under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

(c) “Plan year” means the year designated in the evidence of coverage of a pharmacy benefits plan in which a person is covered by such plan.

Sec. 2. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A manufacturer shall not increase the effective price of a prescription drug for a pharmacy benefits plan during a plan year, but may increase the effective price at the beginning of the next plan year in accordance with an agreement entered into with the



1 *issuer of the pharmacy benefits plan or the pharmacy benefit*
2 *manager that manages the pharmacy benefits plan.*

3 2. *Any provision of a contract between a manufacturer and*
4 *the issuer of a pharmacy benefits plan or a pharmacy benefit*
5 *manager that conflicts with the provisions of this section is void.*

6 3. *As used in this section:*

7 (a) *“Effective price” means, with regard to a pharmacy*
8 *benefits plan, the total amount paid for a prescription drug by the*
9 *issuer of the pharmacy benefits plan, any pharmacy benefit*
10 *manager and a covered person, less the amount of any rebate*
11 *provided to such persons. If the pharmacy benefits plan provides*
12 *coverage through a network plan, the effective price must be*
13 *determined using amounts that apply when the drug is obtained*
14 *from a pharmacy that is in the network of providers under*
15 *contract with the issuer of the pharmacy benefits plan.*

16 (b) *“Network plan” has the meaning ascribed to it in*
17 *NRS 683A.179.*

18 (c) *“Pharmacy benefit manager” has the meaning ascribed to*
19 *it in NRS 683A.174.*

20 (d) *“Pharmacy benefits plan” has the meaning ascribed to it in*
21 *NRS 683A.175.*

22 (e) *“Plan year” has the meaning ascribed to it in*
23 *NRS 683A.179.*

24 **Sec. 3.** 1. The amendatory provisions of this act:

25 (a) Do not apply to any pharmacy benefits plan for the duration
26 of the plan year in effect on October 1, 2019; and

27 (b) Apply to such a pharmacy benefits plan after the expiration
28 of that plan year.

29 2. As used in this section:

30 (a) “Pharmacy benefits plan” has the meaning ascribed to it in
31 NRS 683A.175.

32 (b) “Plan year” means the year designated in the evidence of
33 coverage of a health care plan in which a person is covered by such
34 plan.

