

February 15, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1332

Page 1, line 2, remove "; and"

Page 1, line 3, remove "to provide for application"

Page 2, after line 2, insert:

- "3. "De-identified information" means information from which the name, address, telephone number, and other variables have been removed in accordance with requirements of title 45, Code of Federal Regulations, part 164, section 512, subsections (a) or (b)."

Page 2, line 3, replace "3." with "4."

Page 2, line 5, replace "4." with "5."

Page 2, line 9, replace "5." with "6."

Page 2, line 17, after the semicolon insert "or"

Page 2, line 18, replace the semicolon with a period

Page 2, remove lines 19 through 21

Page 2, line 22, replace "6." with "7."

Page 2, line 27, after the period insert "The term does not include a health carrier licensed under title 26.1 if the health carrier is providing pharmacy benefits management to its insureds and does not include a public self-funded pool or a private single-employer self-funded plan that provides pharmacy benefits management directly to its beneficiaries."

8. "Rebate" includes the nature, type, and amount of all other revenue received by the pharmacy benefits manager from each pharmaceutical manufacturer or labeler for any other product or service provided, including any formulary management and drug-switch program, educational support, claims processing, and pharmacy network fees that are changed from retail pharmacies and data sales fees, with respect to programs that the covered entity offers or provides to the covered entity's enrollees.
9. "Utilization information" means de-identified information regarding the quantity of drug prescriptions dispensed to members of a health plan during a specified time period."

Page 2, remove lines 28 through 30

Page 3, remove lines 1 through 8

Page 3, remove lines 12 through 17

Page 3, line 18, replace "26.1-27.1-04" with "26.1-27.1-03"

Page 3, line 20, remove "or affiliation"

Page 3, remove line 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 3

Page 5, replace "26.1-27.1-06" with "26.1-27.1-04"

Page 5, line 7, replace "and" with "or"

Page 5, line 12, remove ", after disclosing to the covered individual and covered entity the"

Page 5, remove line 13

Page 5, line 14, remove "the pharmacy benefits manager as a result of the substitution"

Page 5, replace lines 25 through 31 with:

- "4. This section does not permit the substitution of an equivalent drug product contrary to section 19-02.1-02.

26.1-27.1-05. Contents of pharmacy benefits management agreement - Requirements.

1. A pharmacy benefits manager shall offer to a covered entity options for the covered entity to contract for services that must include:
 - a. A transaction fee without a sharing of rebates and other retrospective utilization discounts;
 - b. A combination of a transaction fee and a sharing of rebates and other retrospective utilization discounts; or
 - c. A transaction fee based on the covered entity receiving all the benefits of rebates and other retrospective utilization discounts.
2. The agreement between the pharmacy benefits manager and the covered entity must include a provision allowing the covered entity to audit the pharmacy benefits manager's books, accounts, and records, including de-identified utilization information, as necessary to confirm that the benefit of rebates and other retrospective utilization discounts are being shared as required by the contract.

26.1-27.1-06. Examination of insurer-covered entity.

1. During an examination of a company as provided for in chapter 26.1-03, 26.1-17, or 26.1-18.1, the commissioner shall examine any contract between the company and a pharmacy benefits manager and any related record to determine if the rebates and other retrospective utilization discount benefits that the company received from the pharmacy benefits manager have been applied toward reducing the company's rates or have been distributed to covered individuals.

2. To facilitate the examination of the company, the company shall disclose annually to the commissioner the benefits of rebates and other retrospective utilization discounts received under any contract with a pharmacy benefits manager and shall describe the manner in which the rebates and other retrospective utilization discounts are applied toward reducing rates.
3. Any information disclosed to the commissioner under this section is considered a trade secret under chapter 47-25.1.

26.1-27.1-07. Rulemaking authority. The commissioner shall adopt rules as necessary before implementation of this chapter."

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 7

Renumber accordingly