HEALTH/ACC INSURANCE. Provides for the transparency of Maximum Allowable Cost Lists for prescription drugs. (8/1/14)

AN ACT

To enact Subpart C-1 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1863 through 1865, relative to Maximum Allowable Cost Lists for prescription drugs; to provide with respect to definitions; to provide for the regulation of pharmacy benefit manager's maintenance and use of Maximum Allowable Cost Lists for prescription drugs; to provide with respect to an appeals process; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart C-1 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1863 through 1865, is hereby enacted to read as follows:

Subpart C-1. PHARMACY BENEFIT MANAGER'S MAINTENANCE AND USE OF "MAXIMUM ALLOWABLE COST LISTS" FOR PRESCRIPTION DRUGS

§1863. Definitions

As used in this Subpart, the following definitions shall apply:

(1) "Maximum Allowable Cost List" means a listing of the National Drug Code used by a pharmacy benefits manager setting the maximum allowable cost
on which reimbursement to a pharmacy or pharmacist may be based.

(2) "NDC" means the National Drug Code, a numerical identifier assigned to all prescription drugs.

(3) "Pharmacist" means a licensed pharmacist as defined in R.S. 22:1852(8).

(4) "Pharmacist services" means products, goods, or services provided as a part of the practice of pharmacy as defined in R.S. 22:1852(9).

(5) "Pharmacy" means any appropriately licensed place where prescription drugs are dispensed as defined in R.S. 22:1852(10).

(6) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy benefits plan or program.

(7) "Pharmacy benefits plan" or "pharmacy benefits program" means a plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who reside in or are employed in Louisiana.

§1864. Requirements for use of the NDC by a pharmacy benefits manager

A. Before a pharmacy benefits manager places or continues a particular NDC or Maximum Allowable Cost List, the following requirements shall be met:

(1) The NDC shall be 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 have an "NR" or "NA" rating or a similar rating by a nationally recognized reference.

(2) The NDC shall be available for purchase by pharmacies in the state from national or regional wholesalers.

(3) The NDC shall not be obsolete.

B. A pharmacy benefits manager shall be required to:

(1) Provide access to its Maximum Allowable Cost List to each pharmacy subject to the list.
(2) Update its Maximum Allowable Cost List on a timely basis, but in no event longer than seven calendar days from a change in the methodology on which the Maximum Allowable Cost List is based or in the value of a variable involved in the methodology.

(3) Provide a process for each pharmacy subject to the list to receive prompt notification of an update to the Maximum Allowable Cost List.

§1865. Appeals

A. Within seven business days after the applicable fill date, the pharmacy benefits manager shall provide a reasonable administrative appeal procedure to allow pharmacies to challenge maximum allowable costs for a specific NDC or NDCs as not meeting the requirements of this Subpart or being below the cost at which the pharmacy may obtain the NDC. The pharmacy benefits manager shall respond to a challenge within seven business days after receipt of the challenge.

B. If an appeal made pursuant to this Section is upheld, the pharmacy benefits manager shall take the following actions:

(1) Make the change in the Maximum Allowable Cost List.

(2) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in question.

(3) Make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List.

C. If an appeal made pursuant to this Section is denied, the pharmacy benefits manager shall provide the challenging pharmacy or pharmacist the NDC number from national or regional wholesalers operating in Louisiana.

D. A violation of this Subpart shall be deemed deceptive pursuant to the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.
DIGEST

Mills (SB 410)

Proposed law provides for definitions of:

1. Maximum Allowable Cost List
2. National Drug Code (NDC)
3. Pharmacist
4. Pharmacist services
5. Pharmacy
6. Pharmacy benefits manager
7. Pharmacy benefits plan or program

Proposed law allows a pharmacy benefits manager to use the NDC only when the following conditions have been met:

1. The NDC is listed as "A" or "B" rated in the most recent version of the FDA's Orange Book.
2. The NDC is available for purchase by pharmacies in the state from national or regional wholesalers.
3. The NDC is not obsolete.

Proposed law requires a pharmacy benefits manager to:

1. Provide access to its Maximum Allowable Cost List.
2. Update its Maximum Allowable Cost List on a timely basis.
3. Provide a process for each pharmacy to receive prompt notification of an update.

Proposed law requires a pharmacy benefits manager to provide a reasonable administrative appeal procedure within seven business days after the applicable fill date. Requires the pharmacy benefits manager to respond to a challenge within seven business days after receipt of a challenge.

Proposed law requires a pharmacy benefits manager to perform the following if an appeal is upheld:

1. Make the change in the Maximum Allowable Cost List.
2. Permit the challenging pharmacy or pharmacist to reverse and rebill the claim.
3. Make the change effective for each similarly situated pharmacy.

Proposed law requires a pharmacy benefits manager to provide the challenging pharmacy or pharmacist the NDC number if an appeal is denied.
Proposed law deems a violation of proposed law to be deceptive pursuant to present Unfair Trade Practices and Consumer Protection Law.

Effective August 1, 2014.

(Adds R.S. 22:1863-1865)