

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 885

Short Title: Health Ins. – Pharmacy of Choice.

(Public)

Sponsors: Senator Sands.

Referred to: Judiciary II.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO INSURE THAT CONSUMERS HAVE THE RIGHT TO SELECT THE PHARMACY OF THEIR CHOICE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new section to read:

§ 58-51-58. Pharmacy of choice.

(a) This section shall apply to all health benefit plans providing pharmaceutical services benefits, including without limitation, prescription drugs, to any resident of North Carolina. This section shall also apply to insurance companies and health maintenance organizations that provide or administer coverages and benefits for prescription drugs.

(b) As used in this section:

(1) 'Copayment' means a type of cost sharing whereby insured or covered persons pay a specified predetermined amount per unit of service with their insurer paying the remainder of the charge. The copayment is incurred at the time the service is used. The copayment may be a fixed or variable amount.

(2) 'Contract provider' means a pharmacy granted the right to provide prescription drugs and pharmacy services according to the terms of the insurer.

(3) 'Health benefit plan' is as that term is defined in G.S. 58-50-110(11).

(4) 'Insurer' means any entity that provides or offers a health benefit plan.

- 1 (4) 'Pharmacy' means a pharmacy registered with the North Carolina
2 Board of Pharmacy.
- 3 (c) The terms of a health benefit plan shall not:
- 4 (1) Prohibit or limit a resident of this State, who is eligible for
5 reimbursement for pharmacy services as a participant or beneficiary of
6 a health benefit plan, from selecting a pharmacy of his or her choice
7 when the pharmacy has agreed to participate in the health benefit plan
8 according to the terms offered by the insurer;
- 9 (2) Deny a pharmacy the opportunity to participate as a contract provider
10 under a health benefit plan if the pharmacy agrees to provide pharmacy
11 services that meet the terms and requirements, including terms of
12 reimbursement, of the insurer under a health benefit plan;
- 13 (3) Impose upon a beneficiary of pharmacy services under a health benefit
14 plan any copayment, fee, or condition that is not equally imposed upon
15 all beneficiaries in the same benefit category, class, or copayment level
16 under the health benefit plan;
- 17 (4) Impose a monetary disincentive or penalty under a health benefit plan
18 that would affect a beneficiary's choice of pharmacy. Monetary
19 disincentives or penalties include, without limitation, higher
20 copayment, or a reduction in reimbursement for services, or promotion
21 of one pharmacy over another;
- 22 (5) Reduce allowable reimbursement for pharmacy services to a
23 beneficiary under a health benefit plan because the beneficiary selects
24 a pharmacy of his or her choice, so long as that pharmacy has enrolled
25 with the health benefit plan under the terms offered to all pharmacies
26 in the plan coverage area; or
- 27 (6) Require a beneficiary, as a condition of payment or reimbursement, to
28 purchase pharmacy services, including prescription drugs, exclusively
29 through a mail-order pharmacy.
- 30 (d) A pharmacy, by or through a pharmacist acting on its behalf as its employee,
31 agent, or owner, may not waive, discount, rebate, or distort a copayment of any insurer,
32 policy, or plan, or a beneficiary's coinsurance portion of a prescription drug coverage or
33 reimbursement. A violation of this subsection shall be a violation of the Pharmacy
34 Practice Act subjecting the pharmacist as a licensee to disciplinary authority of the
35 North Carolina Board of Pharmacy pursuant to G.S. 90-85.38.
- 36 (e) At least 60 days before the effective date of any health benefit plan providing
37 reimbursement to North Carolina residents for prescription drugs, which restricts
38 pharmacy participation, the entity providing the health benefit plan shall notify, in
39 writing, all pharmacies within the geographical coverage area of the health benefit plan,
40 and offer to the pharmacies the opportunity to participate in the health benefit plan. All
41 pharmacies in the geographical coverage area of the plan shall be eligible to participate
42 under identical reimbursement terms for providing pharmacy services, including
43 prescription drugs. The entity providing the health benefit plan shall notify the
44 beneficiaries of the plan in writing at regular intervals, but at least every six months, of

1 the names and locations of pharmacies that are participating in the plan as providers of
2 pharmacy services and prescription drugs.

3 (f) If rebates or marketing incentives are allowed or given by manufacturers of
4 prescription drugs to pharmacies or other entities providing services or benefits under a
5 health benefit plan, these rebates or marketing incentives shall be offered on an equal
6 basis to all pharmacies or other entities providing services or benefits under a health
7 benefit plan. A violation of this subsection shall entitle the aggrieved pharmacy to a
8 civil cause of action for damages or injunctive relief, or both.

9 (g) Any entity or insurer providing a health benefit plan is subject to G.S. 58-2-
10 70. A violation of this section shall subject the entity providing a health benefit plan to
11 the sanctions of revocation, suspension, or refusal to renew license in the discretion of
12 the Commissioner pursuant to G.S. 58-3-100.

13 (h) A violation of this section creates a civil cause of action for damages or
14 injunctive relief in favor of any person or pharmacy aggrieved by the violation.

15 (i) The Commissioner shall not approve any health benefit plan providing
16 pharmaceutical services which does not conform to this section.

17 (j) Any provision in a health benefit plan which is executed, delivered, or
18 renewed, or otherwise contracted for in this State that is contrary to any provision of this
19 section shall, to the extent of the conflict, be void.

20 (k) It shall be a violation of this section for any insurer or any person to provide
21 any health benefit plan providing for pharmaceutical services to residents of this State
22 that does not conform to the provisions of this section."

23 Sec. 2. This act becomes effective October 1, 1993.