

AMENDMENTS TO LB990

Introduced by Banking, Commerce and Insurance.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 44-4603, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 44-4603 For purposes of the Pharmacy Benefit Manager Licensure and
6 Regulation Act:

7 (1) Auditing entity means a pharmacy benefit manager or any person
8 that represents a pharmacy benefit manager in conducting an audit for
9 compliance with a contract between the pharmacy benefit manager and a
10 pharmacy;

11 (2) Claims processing service means an administrative service
12 performed in connection with the processing and adjudicating of a claim
13 relating to a pharmacist service that includes:

14 (a) Receiving a payment for a pharmacist service; or

15 (b) Making a payment to a pharmacist or pharmacy for a pharmacist
16 service;

17 (3) Covered person means a member, policyholder, subscriber,
18 enrollee, beneficiary, dependent, or other individual participating in a
19 health benefit plan;

20 (4) Director means the Director of Insurance;

21 (5) Health benefit plan means a policy, contract, certificate, plan,
22 or agreement entered into, offered, or issued by a health carrier or
23 self-funded employee benefit plan to the extent not preempted by federal
24 law to provide, deliver, arrange for, pay for, or reimburse any of the
25 costs of a physical, mental, or behavioral health care service;

26 (6) Health carrier has the same meaning as in section 44-1303;

27 (7) Other prescription drug or device service means a service other

1 than a claims processing service, provided directly or indirectly,
2 whether in connection with or separate from a claims processing service,
3 including, but not limited to:

4 (a) Negotiating a rebate, discount, or other financial incentive or
5 arrangement with a drug company;

6 (b) Disbursing or distributing a rebate;

7 (c) Managing or participating in an incentive program or arrangement
8 for a pharmacist service;

9 (d) Negotiating or entering into a contractual arrangement with a
10 pharmacist or pharmacy;

11 (e) Developing and maintaining a formulary;

12 (f) Designing a prescription benefit program; or

13 (g) Advertising or promoting a service;

14 (8) Pharmacist has the same meaning as in section 38-2832;

15 (9) Pharmacist service means a product, good, or service or any
16 combination thereof provided as a part of the practice of pharmacy;

17 (10) Pharmacy has the same meaning as in section 71-425;

18 (11)(a) Pharmacy benefit manager means a person, business, or
19 entity, including a wholly or partially owned or controlled subsidiary of
20 a pharmacy benefit manager, that provides a claims processing service or
21 other prescription drug or device service for a health benefit plan to a
22 covered person who is a resident of this state; and

23 (b) Pharmacy benefit manager does not include:

24 (i) A health care facility licensed in this state;

25 (ii) A health care professional licensed in this state;

26 (iii) A consultant who only provides advice as to the selection or
27 performance of a pharmacy benefit manager; or

28 (iv) A health carrier to the extent that it performs any claims
29 processing service or other prescription drug or device service
30 exclusively for its enrollees; and

31 (12) Plan sponsor has the same meaning as in section 44-2702.

1 Sec. 2. Section 68-956, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 68-956 ~~(1)~~ The department shall (a) enter ÷ (1) Enter into a
4 multistate purchasing pool, ~~(b) ÷ (2)~~ negotiate directly with
5 manufacturers or labelers, ~~÷ or (c) (3)~~ contract with a pharmacy benefit
6 manager for negotiated discounts or rebates for all prescription drugs
7 under the medical assistance program in order to achieve the lowest
8 available price for such drugs under such program.

9 (2) Any contract under the Medicaid Prescription Drug Act with a
10 pharmacy benefit manager or a managed care organization using a pharmacy
11 benefit manager shall require any pharmacy benefit manager that is a
12 party or otherwise subject to the contract to comply with the Pharmacy
13 Benefit Manager Licensure and Regulation Act.

14 Sec. 3. Original section 68-956, Reissue Revised Statutes of
15 Nebraska, and section 44-4603, Revised Statutes Cumulative Supplement,
16 2022, are repealed.