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HOUSE BILL 2011

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Schual-Berke, Campbell, Cody, Morrell, Benson, Edwards and Chase

Read first time 02/19/2003. Referred to Committee on Health Care.

1 AN ACT Relating to state agency contracts with pharmaceutical  
2 benefit management companies; amending RCW 41.05.011; adding a new  
3 section to chapter 41.05 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that pharmaceutical  
6 benefit management companies can provide valuable services to state  
7 purchased health care programs that include coverage of prescription  
8 drugs. The legislature further finds that it is in the best interests  
9 of the state to maximize potential savings associated with these  
10 contracts by obtaining full disclosure from pharmacy benefit management  
11 companies regarding their business relationships with pharmaceutical  
12 manufacturers. It is the intent of the legislature to provide for full  
13 disclosure of any remuneration received by pharmacy benefits management  
14 companies from pharmaceutical manufacturers related to the  
15 administration of state purchased health care programs.

16 **Sec. 2.** RCW 41.05.011 and 2001 c 165 s 2 are each amended to read  
17 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section shall apply throughout this chapter.

3 (1) "Administrator" means the administrator of the authority.

4 (2) "State purchased health care" or "health care" means medical  
5 and health care, pharmaceuticals, and medical equipment purchased with  
6 state and federal funds by the department of social and health  
7 services, the department of health, the basic health plan, the state  
8 health care authority, the department of labor and industries, the  
9 department of corrections, the department of veterans affairs, and  
10 local school districts.

11 (3) "Authority" means the Washington state health care authority.

12 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
13 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
14 or a health maintenance organization as defined in chapter 48.46 RCW.

15 (5) "Flexible benefit plan" means a benefit plan that allows  
16 employees to choose the level of health care coverage provided and the  
17 amount of employee contributions from among a range of choices offered  
18 by the authority.

19 (6) "Employee" includes all full-time and career seasonal employees  
20 of the state, whether or not covered by civil service; elected and  
21 appointed officials of the executive branch of government, including  
22 full-time members of boards, commissions, or committees; and includes  
23 any or all part-time and temporary employees under the terms and  
24 conditions established under this chapter by the authority; justices of  
25 the supreme court and judges of the court of appeals and the superior  
26 courts; and members of the state legislature or of the legislative  
27 authority of any county, city, or town who are elected to office after  
28 February 20, 1970. "Employee" also includes: (a) Employees of a  
29 county, municipality, or other political subdivision of the state if  
30 the legislative authority of the county, municipality, or other  
31 political subdivision of the state seeks and receives the approval of  
32 the authority to provide any of its insurance programs by contract with  
33 the authority, as provided in RCW 41.04.205; (b) employees of employee  
34 organizations representing state civil service employees, at the option  
35 of each such employee organization, and, effective October 1, 1995,  
36 employees of employee organizations currently pooled with employees of  
37 school districts for the purpose of purchasing insurance benefits, at  
38 the option of each such employee organization; and (c) employees of a

1 school district if the authority agrees to provide any of the school  
2 districts' insurance programs by contract with the authority as  
3 provided in RCW 28A.400.350.

4 (7) "Board" means the public employees' benefits board established  
5 under RCW 41.05.055.

6 (8) "Retired or disabled school employee" means:

7 (a) Persons who separated from employment with a school district or  
8 educational service district and are receiving a retirement allowance  
9 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

10 (b) Persons who separate from employment with a school district or  
11 educational service district on or after October 1, 1993, and  
12 immediately upon separation receive a retirement allowance under  
13 chapter 41.32, 41.35, or 41.40 RCW;

14 (c) Persons who separate from employment with a school district or  
15 educational service district due to a total and permanent disability,  
16 and are eligible to receive a deferred retirement allowance under  
17 chapter 41.32, 41.35, or 41.40 RCW.

18 (9) "Benefits contribution plan" means a premium only contribution  
19 plan, a medical flexible spending arrangement, or a cafeteria plan  
20 whereby state and public employees may agree to a contribution to  
21 benefit costs which will allow the employee to participate in benefits  
22 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
23 internal revenue code.

24 (10) "Salary" means a state employee's monthly salary or wages.

25 (11) "Participant" means an individual who fulfills the eligibility  
26 and enrollment requirements under the benefits contribution plan.

27 (12) "Plan year" means the time period established by the  
28 authority.

29 (13) "Separated employees" means persons who separate from  
30 employment with an employer as defined in:

31 (a) RCW 41.32.010(11) on or after July 1, 1996; or

32 (b) RCW 41.35.010 on or after September 1, 2000; or

33 (c) RCW 41.40.010 on or after March 1, 2002;

34 and who are at least age fifty-five and have at least ten years of  
35 service under the teachers' retirement system plan 3 as defined in RCW  
36 41.32.010(40), the Washington school employees' retirement system plan  
37 3 as defined in RCW 41.35.010, or the public employees' retirement  
38 system plan 3 as defined in RCW 41.40.010.

1 (14) "Emergency service personnel killed in the line of duty" means  
2 law enforcement officers and fire fighters as defined in RCW 41.26.030,  
3 and reserve officers and fire fighters as defined in RCW 41.24.010 who  
4 die as a result of injuries sustained in the course of employment as  
5 determined consistent with Title 51 RCW by the department of labor and  
6 industries.

7 (15) "Pharmacy benefit management company" means an entity that  
8 administers or manages prescription drug coverage for one or more  
9 health services purchasers, such as employers, health carriers, labor  
10 organizations, or governmental entities, by providing prescription drug  
11 services that may include, but are not limited to, claims processing,  
12 development of pharmacy provider networks, negotiation of discounts or  
13 rebates from pharmaceutical manufacturers, formulary development, and  
14 prescription drug utilization review.

15 (16) "Pharmaceutical manufacturer" means any entity that is engaged  
16 in the production, preparation, propagation, compounding, conversion,  
17 or processing of prescription drugs, either directly or indirectly by  
18 extraction from substances of natural origin, or independently by means  
19 of chemical synthesis, or by a combination of extraction and chemical  
20 synthesis, or any entity engaged in the packaging, repackaging,  
21 labeling, relabeling, or distribution of prescription drugs.  
22 "Pharmaceutical manufacturer" does not include a wholesale drug  
23 distributor, a pharmacist licensed under chapter 18.64 RCW, or pharmacy  
24 operations of any group model health maintenance organization  
25 undertaken for the benefit of patients obtaining care through that  
26 system.

27 NEW SECTION. Sec. 3. A new section is added to chapter 41.05 RCW  
28 to read as follows:

29 Any contract between the administrator or any other agency  
30 administering a state purchased health care program and a pharmacy  
31 benefit management company must include the following provisions:

32 (1) Disclosure of any agreements between the pharmacy benefit  
33 management company and a pharmaceutical manufacturer, its contractors,  
34 or an affiliate of a pharmaceutical manufacturer related to the use of  
35 that pharmaceutical manufacturer's products. Agreements to be  
36 disclosed include but are not limited to:

1           (a) Agreements for the submission of data to pharmaceutical  
2 manufacturers or their contractors and any remuneration received from  
3 the manufacturer for supplying the data;  
4           (b) Rebate agreements or contracts with pharmaceutical  
5 manufacturers related to use of that manufacturer's products or the use  
6 of another manufacturer's products;  
7           (c) Payments by a drug manufacturer to the pharmacy benefits  
8 management company for switching consumer purchases to a drug produced  
9 or distributed by that pharmaceutical manufacturer; and  
10           (d) Any other payment to the pharmacy benefit management company by  
11 a pharmaceutical manufacturer or its contractors; and  
12           (2) An affirmative statement that the pharmacy benefits management  
13 company will be capable of administering, and agree to abide by the  
14 terms of, any preferred drug list developed for use by state purchased  
15 health care programs.

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