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**SECOND SUBSTITUTE SENATE BILL 5213**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Kuderer, Short, Cleveland, Conway, Dhingra, Rolfes, Wellman, and C. Wilson)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to pharmacy benefit managers; amending RCW  
2 48.200.020, 48.200.210, and 48.200.280; adding a new chapter to Title  
3 48 RCW; recodifying RCW 48.200.210, 48.200.220, 48.200.230,  
4 48.200.240, 48.200.250, 48.200.260, 48.200.270, 48.200.280, and  
5 48.200.290; and providing an effective date.

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

7 **Sec. 1.** RCW 48.200.020 and 2020 c 240 s 2 are each amended to  
8 read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Affiliate" or "affiliated employer" means a person who  
12 directly or indirectly through one or more intermediaries, controls  
13 or is controlled by, or is under common control with, another  
14 specified person.

15 (2) "Certification" has the same meaning as in RCW 48.43.005.

16 (3) "Employee benefits programs" means programs under both the  
17 public employees' benefits board established in RCW 41.05.055 and the  
18 school employees' benefits board established in RCW 41.05.740.

19 (4)(a) "Health care benefit manager" means a person or entity  
20 providing services to, or acting on behalf of, a health carrier or  
21 employee benefits programs, that directly or indirectly impacts the

1 determination or utilization of benefits for, or patient access to,  
2 health care services, drugs, and supplies including, but not limited  
3 to:

- 4 (i) Prior authorization or preauthorization of benefits or care;
- 5 (ii) Certification of benefits or care;
- 6 (iii) Medical necessity determinations;
- 7 (iv) Utilization review;
- 8 (v) Benefit determinations;
- 9 (vi) Claims processing and repricing for services and procedures;
- 10 (vii) Outcome management;
- 11 (viii) Provider credentialing and recredentialing;
- 12 (ix) Payment or authorization of payment to providers and  
13 facilities for services or procedures;
- 14 (x) Dispute resolution, grievances, or appeals relating to  
15 determinations or utilization of benefits;
- 16 (xi) Provider network management; or
- 17 (xii) Disease management.

18 (b) "Health care benefit manager" includes, but is not limited  
19 to, health care benefit managers that specialize in specific types of  
20 health care benefit management such as (~~pharmacy benefit managers,~~)  
21 radiology benefit managers, laboratory benefit managers, and mental  
22 health benefit managers.

23 (c) "Health care benefit manager" does not include:

- 24 (i) Health care service contractors as defined in RCW 48.44.010;
- 25 (ii) Health maintenance organizations as defined in RCW  
26 48.46.020;
- 27 (iii) Issuers as defined in RCW 48.01.053;
- 28 (iv) The public employees' benefits board established in RCW  
29 41.05.055;
- 30 (v) The school employees' benefits board established in RCW  
31 41.05.740;
- 32 (vi) Discount plans as defined in RCW 48.155.010;
- 33 (vii) Direct patient-provider primary care practices as defined  
34 in RCW 48.150.010;
- 35 (viii) An employer administering its employee benefit plan or the  
36 employee benefit plan of an affiliated employer under common  
37 management and control;
- 38 (ix) A union administering a benefit plan on behalf of its  
39 members;

1 (x) An insurance producer selling insurance or engaged in related  
2 activities within the scope of the producer's license;

3 (xi) A creditor acting on behalf of its debtors with respect to  
4 insurance, covering a debt between the creditor and its debtors;

5 (xii) A behavioral health administrative services organization or  
6 other county-managed entity that has been approved by the state  
7 health care authority to perform delegated functions on behalf of a  
8 carrier;

9 (xiii) A hospital licensed under chapter 70.41 RCW or ambulatory  
10 surgical facility licensed under chapter 70.230 RCW;

11 (xiv) The Robert Bree collaborative under chapter 70.250 RCW;

12 (xv) The health technology clinical committee established under  
13 RCW 70.14.090; ((~~or~~))

14 (xvi) Pharmacy benefit managers; or

15 (xvii) The prescription drug purchasing consortium established  
16 under RCW 70.14.060.

17 (5) "Health care provider" or "provider" has the same meaning as  
18 in RCW 48.43.005.

19 (6) "Health care service" has the same meaning as in RCW  
20 48.43.005.

21 (7) "Health carrier" or "carrier" has the same meaning as in RCW  
22 48.43.005.

23 (8) "Laboratory benefit manager" means a person or entity  
24 providing service to, or acting on behalf of, a health carrier,  
25 employee benefits programs, or another entity under contract with a  
26 carrier, that directly or indirectly impacts the determination or  
27 utilization of benefits for, or patient access to, health care  
28 services, drugs, and supplies relating to the use of clinical  
29 laboratory services and includes any requirement for a health care  
30 provider to submit a notification of an order for such services.

31 (9) "Mental health benefit manager" means a person or entity  
32 providing service to, or acting on behalf of, a health carrier,  
33 employee benefits programs, or another entity under contract with a  
34 carrier, that directly or indirectly impacts the determination of  
35 utilization of benefits for, or patient access to, health care  
36 services, drugs, and supplies relating to the use of mental health  
37 services and includes any requirement for a health care provider to  
38 submit a notification of an order for such services.

1 (10) "Network" means the group of participating providers,  
2 pharmacies, and suppliers providing health care services, drugs, or  
3 supplies to beneficiaries of a particular carrier or plan.

4 (11) "Person" includes, as applicable, natural persons, licensed  
5 health care providers, carriers, corporations, companies, trusts,  
6 unincorporated associations, and partnerships.

7 (12) (a) (~~"Pharmacy benefit manager" means a person that~~  
8 ~~contracts with pharmacies on behalf of an insurer, a third-party~~  
9 ~~payer, or the prescription drug purchasing consortium established~~  
10 ~~under RCW 70.14.060 to:~~

11 ~~(i) Process claims for prescription drugs or medical supplies or~~  
12 ~~provide retail network management for pharmacies or pharmacists;~~

13 ~~(ii) Pay pharmacies or pharmacists for prescription drugs or~~  
14 ~~medical supplies;~~

15 ~~(iii) Negotiate rebates with manufacturers for drugs paid for or~~  
16 ~~procured as described in this subsection;~~

17 ~~(iv) Manage pharmacy networks; or~~

18 ~~(v) Make credentialing determinations.~~

19 ~~(b) "Pharmacy benefit manager" does not include a health care~~  
20 ~~service contractor as defined in RCW 48.44.010.~~

21 ~~(13)(a))~~ (13) "Radiology benefit manager" means any person or entity  
22 providing service to, or acting on behalf of, a health carrier,  
23 employee benefits programs, or another entity under contract with a  
24 carrier, that directly or indirectly impacts the determination or  
25 utilization of benefits for, or patient access to, the services of a  
26 licensed radiologist or to advanced diagnostic imaging services  
27 including, but not limited to:

28 (i) Processing claims for services and procedures performed by a  
29 licensed radiologist or advanced diagnostic imaging service provider;  
30 or

31 (ii) Providing payment or payment authorization to radiology  
32 clinics, radiologists, or advanced diagnostic imaging service  
33 providers for services or procedures.

34 (b) "Radiology benefit manager" does not include a health care  
35 service contractor as defined in RCW 48.44.010, a health maintenance  
36 organization as defined in RCW 48.46.020, or an issuer as defined in  
37 RCW 48.01.053.

38 ~~((14))~~ (13) "Utilization review" has the same meaning as in RCW  
39 48.43.005.

1       **Sec. 2.** RCW 48.200.210 and 2020 c 240 s 10 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this section and  
4 RCW 48.200.220 through 48.200.290 (as recodified by this act) unless  
5 the context clearly requires otherwise.

6       (1) "Audit" means an on-site or remote review of the records of a  
7 pharmacy by or on behalf of an entity.

8       (2) "Claim" means a request from a pharmacy or pharmacist to be  
9 reimbursed for the cost of filling or refilling a prescription for a  
10 drug or for providing a medical supply or service.

11       (3) "Clerical error" means a minor error:

12       (a) In the keeping, recording, or transcribing of records or  
13 documents or in the handling of electronic or hard copies of  
14 correspondence;

15       (b) That does not result in financial harm to an entity; and

16       (c) That does not involve dispensing an incorrect dose, amount,  
17 or type of medication, failing to dispense a medication, or  
18 dispensing a prescription drug to the wrong person.

19       (4) "Entity" includes:

20       (a) A pharmacy benefit manager;

21       (b) ~~((An insurer;~~

22       ~~(e)))~~ A third-party payor;

23       ~~((d)))~~ (c) A state agency; or

24       ~~((e)))~~ (d) A person that represents or is employed by one of the  
25 entities described in this subsection.

26       (5) "Fraud" means knowingly and willfully executing or attempting  
27 to execute a scheme, in connection with the delivery of or payment  
28 for health care benefits, items, or services, that uses false or  
29 misleading pretenses, representations, or promises to obtain any  
30 money or property owned by or under the custody or control of any  
31 person.

32       (6) "Pharmacist" has the same meaning as in RCW 18.64.011.

33       (7) "Pharmacy" has the same meaning as in RCW 18.64.011.

34       (8) ~~((("Third-party payor" means a person licensed under RCW~~  
35 ~~48.39.005.))~~ "Affiliate" or "affiliated employer" means a person who,  
36 through one or more intermediaries, controls or is controlled by, or  
37 is under common control with, another specified person.

38       (9) "Affiliated pharmacy" means a pharmacy that through one or  
39 more intermediaries is owned by, controlled by, or is under common

1 ownership or control of a pharmacy benefit manager, or where the  
2 pharmacy benefit manager has financial interest in the pharmacy.

3 (10) "Certification" has the same meaning as in RCW 48.43.005.

4 (11) "Covered person" means a person directly or indirectly  
5 covered by a pharmacy benefit plan or program.

6 (12) "List" means the list of drugs for which predetermined  
7 reimbursement costs have been established, such as a maximum  
8 allowable cost, maximum allowable cost list, or any other benchmark  
9 prices utilized by the pharmacy benefit manager and must include the  
10 basis of the methodology and sources utilized to determine drug  
11 reimbursement amounts.

12 (13) "Mail order pharmacy" means a pharmacy not open to the  
13 public which dispenses prescription drugs to patients through the  
14 mail or common carrier.

15 (14) "Multiple source drug" means any covered outpatient  
16 prescription drug for which there is at least one other drug product  
17 that is rated as therapeutically equivalent under the food and drug  
18 administration's most recent publication of "Approved Drug Products  
19 with Therapeutic Equivalence Evaluations;" is pharmaceutically  
20 equivalent or bioequivalent, as determined by the food and drug  
21 administration; and is sold or marketed in the state.

22 (15) "Network pharmacy" means a pharmacy that contracts with a  
23 pharmacy benefit manager or other entity to dispense prescription  
24 drugs to covered persons.

25 (16) "Person" includes, as applicable, natural persons, licensed  
26 health care providers, carriers, corporations, companies, trusts,  
27 unincorporated associations, and partnerships.

28 (17) (a) "Pharmacy benefit manager" means a person that  
29 administers or manages a pharmacy benefits plan or program under a  
30 contractual obligation with a third-party payor.

31 (b) "Pharmacy benefit manager" does not include:

32 (i) Health carriers as defined in RCW 48.43.005;

33 (ii) Managed health care systems as defined in RCW 74.09.522;

34 (iii) Health plans offered to public and school employees under  
35 chapter 41.05 RCW;

36 (iv) Discount plans as defined in RCW 48.155.010;

37 (v) Direct patient-provider primary care practices as defined in  
38 RCW 48.150.010;

39 (vi) A hospital licensed under chapter 70.41 RCW or ambulatory  
40 surgical facility licensed under chapter 70.230 RCW;

1 (vii) The prescription drug purchasing consortium established  
2 under RCW 70.14.060; or

3 (viii) Pharmacy services administrative organizations.

4 (18) "Pharmacy benefits plan or program" means a plan or program  
5 that pays for, reimburses, covers the cost of, or otherwise provides  
6 for pharmacist services to individuals.

7 (19) "Pharmacy network" means the pharmacies located in the state  
8 or licensed under chapter 18.64 RCW and contracted by the pharmacy  
9 benefit manager to dispense prescription drugs to covered persons.

10 (20) "Provider administered drug" means any prescription drug  
11 that requires administration by a provider as defined in RCW  
12 48.43.005.

13 (21) "Specialty drug" means a drug that:

14 (a) Is subject to restricted distribution by the United States  
15 food and drug administration; or

16 (b) Requires special handling, provider coordination, or patient  
17 education that cannot be provided by a retail pharmacy.

18 (22) "Therapeutically equivalent" has the same meaning as in RCW  
19 69.41.110.

20 (23) "Third-party payor" means a health carrier, managed health  
21 care system under RCW 74.09.522, public and school employee benefit  
22 programs offered under chapter 41.05 RCW, or any entity administering  
23 a self-funded group health plan.

24 NEW SECTION. Sec. 3. (1) To conduct business in this state, a  
25 pharmacy benefit manager shall register with the commissioner and  
26 annually renew the registration.

27 (2) To apply for registration under this section, a pharmacy  
28 benefit manager shall:

29 (a) Submit an application on forms and in a manner prescribed by  
30 the commissioner and verified by the applicant by affidavit or  
31 declaration under chapter 5.50 RCW. Applications shall contain at  
32 least the following information:

33 (i) The identity of the pharmacy benefit manager and persons with  
34 any ownership or controlling interest in the applicant, including  
35 relevant business licenses and tax identification numbers, and the  
36 identity of any person that the pharmacy benefit manager has a  
37 controlling interest in;

38 (ii) The business name, address, phone number, and contact person  
39 for the pharmacy benefit manager;

1 (iii) An attestation that they have the capacity to comply with,  
2 and have designated a person responsible for, compliance with state  
3 and federal laws; and

4 (iv) Any other information as the commissioner may reasonably  
5 require; and

6 (b) Pay an initial registration fee and annual renewal  
7 registration fee as established in rule by the commissioner. The fees  
8 for each registration must be set by the commissioner in an amount  
9 that ensures the registration, renewal, rule-making, oversight, and  
10 enforcement activities related to the requirements established under  
11 this act are self-supporting.

12 (3) All receipts from fees collected by the commissioner under  
13 this section shall be deposited into the insurance commissioner's  
14 regulatory account created in RCW 48.02.190.

15 (4) The commissioner may deny a registration or renewal of a  
16 registration of a pharmacy benefit manager if:

17 (a) There is evidence of a previous or current violation of this  
18 chapter;

19 (b) The pharmacy benefit manager has not paid the required fees;  
20 or

21 (c) The pharmacy benefit manager does not have the capacity to  
22 comply with, or has not designated a person responsible for  
23 compliance with, applicable state and federal laws.

24 (5) Any material change in the information provided to obtain or  
25 renew a registration shall be filed with the commissioner within 30  
26 days of the change.

27 (6) Every registered pharmacy benefit manager shall retain a  
28 record of all transactions completed for a period of not less than  
29 seven years from the date of their creation. All such records as to  
30 any particular transaction must be kept available and open to  
31 inspection by the commissioner upon request during the seven years  
32 after the date of completion of such transaction.

33 NEW SECTION. **Sec. 4.** (1) A pharmacy benefit manager may not  
34 administer a pharmacy benefits plan or program without a written  
35 agreement describing the rights and responsibilities of the parties  
36 to the contract conforming to the provisions of this chapter and any  
37 rules adopted by the commissioner to implement or enforce this  
38 chapter including rules governing contract content.



1 (2) A pharmacy benefit manager shall file with the commissioner,  
2 in the form and manner prescribed by the commissioner, every pharmacy  
3 benefits plan or program contract and every contract amendment  
4 between the pharmacy benefit manager and a health carrier as defined  
5 in RCW 48.43.005, provider, pharmacy, pharmacy services  
6 administration organization, or other pharmacy benefit manager or  
7 health care benefit manager, entered into directly or indirectly in  
8 support of a pharmacy benefits plan or program management contract  
9 with a third-party payor within 30 days following the effective date  
10 of the contract or contract amendment.

11 (3) Contracts filed under this section are confidential and not  
12 subject to public inspection under RCW 48.02.120(2), or public  
13 disclosure under chapter 42.56 RCW, if filed in accordance with the  
14 procedures for submitting confidential filings through the system for  
15 electronic rate and form filings and the general filing instructions  
16 as set forth by the commissioner. In the event the referenced filing  
17 fails to comply with the filing instructions setting forth the  
18 process to withhold the contract from public inspection, and the  
19 pharmacy benefit manager indicates that the contract is to be  
20 withheld from public inspection, the commissioner shall reject the  
21 filing and notify the pharmacy benefit manager through the system for  
22 electronic rate and form filings to amend its filing to comply with  
23 the confidentiality filing instructions.

24 NEW SECTION. **Sec. 5.** (1) Upon receipt of an inquiry from the  
25 commissioner, a pharmacy benefit manager shall provide to the  
26 commissioner within 15 business days, in the form and manner required  
27 by the commissioner, a complete response to that inquiry including,  
28 but not limited to, providing a statement or testimony, producing its  
29 accounts, records, and files, responding to complaints, or responding  
30 to surveys and general requests. Failure to make a complete or timely  
31 response constitutes a violation of this chapter.

32 (2) Subject to chapter 48.04 RCW, the commissioner may take  
33 action against a pharmacy benefit manager if the commissioner finds  
34 that a pharmacy benefit manager has:

35 (a) Violated any provision of this chapter, or violated any rule  
36 adopted by the commissioner that is applicable to pharmacy benefit  
37 managers, subpoena, or order of the commissioner or of another  
38 state's insurance commissioner;

39 (b) Failed to renew the pharmacy benefit manager's registration;

1 (c) Failed to pay the registration or renewal fees;

2 (d) Provided incorrect, misleading, incomplete, or materially  
3 untrue information to the commissioner or to a covered person;

4 (e) Used fraudulent, coercive, or dishonest practices, or  
5 demonstrated incompetence or financial irresponsibility in this state  
6 or elsewhere; or

7 (f) Had a pharmacy benefit manager registration, or its  
8 equivalent, denied, suspended, or revoked by the federal government  
9 or in any other state, province, district, or territory.

10 (3) If the commissioner finds that a pharmacy benefit manager  
11 performed any of the actions listed in subsection (2) of this  
12 section, the commissioner may take any combination of the following  
13 actions against the pharmacy benefit manager:

14 (a) Place on probation, suspend, revoke, or refuse to issue or  
15 renew the pharmacy benefit manager's registration;

16 (b) Issue a cease and desist order against the pharmacy benefit  
17 manager;

18 (c) Fine the pharmacy benefit manager up to \$5,000 per violation;

19 (d) Issue an order requiring corrective action against the  
20 pharmacy benefit manager; and

21 (e) Temporarily suspend the pharmacy benefit manager's  
22 registration by an order served by mail or by personal service upon  
23 the pharmacy benefit manager not less than three days prior to the  
24 suspension effective date. The order shall include a notice of  
25 revocation and a finding that the public safety or welfare requires  
26 emergency action. A temporary suspension under this subsection (3)(e)  
27 continues until proceedings for revocation are concluded.

28 (4) A pharmacy benefit manager is not exempt from any requirement  
29 or provision of the chapter because it relied upon a third-party  
30 vendor or subcontracting arrangement for administration of any aspect  
31 of its pharmacy benefits plan or program. The duties established in  
32 this chapter cannot be delegated to a third-party vendor,  
33 subcontractor, or other person.

34 (5) Notwithstanding RCW 48.04.020, a stay of action is not  
35 available for actions the commissioner takes by cease and desist  
36 order, order on hearing, or temporary suspension.

37 NEW SECTION. **Sec. 6.** (1) A pharmacy benefit manager may not:

38 (a) Require a covered person to obtain prescriptions from a mail  
39 order pharmacy unless the prescription drug is a specialty drug, and

1 must receive affirmative authorization from a covered person before  
2 filling a prescription drug through a mail order pharmacy;

3 (b) Reimburse a network pharmacy an amount less than the contract  
4 price between the pharmacy benefit manager and the third-party payor  
5 the pharmacy benefit manager has contracted with to provide a  
6 pharmacy benefits plan or program;

7 (c) Condition, deny, restrict, refuse to authorize or approve, or  
8 reduce payment to a participating provider or facility for a provider  
9 administered drug when all criteria for medical necessity are met,  
10 because the participating provider or facility obtains the drug from  
11 a wholesaler or pharmacy;

12 (d) Exclude a pharmacy from their pharmacy network based solely  
13 on the pharmacy being new, open less than a defined amount of time,  
14 or a license or location transfer;

15 (e) Require a covered person to pay more for their medications  
16 than the pharmacy benefit manager pays the pharmacy for the  
17 medication and the dispensing fee; or

18 (f) Use information obtained through claim adjudication to  
19 solicit, coerce, or incentivize a patient to use their owned or  
20 affiliated pharmacies.

21 (2) A pharmacy benefit manager shall:

22 (a) Regardless of the participating pharmacy, including mail  
23 order pharmacies, where the covered person obtains the prescription  
24 drug, apply the same copays, fees, days allowance, and other  
25 conditions upon the covered person;

26 (b) Permit the covered person to receive delivery or mail order  
27 of a medication through any network pharmacy; and

28 (c) Pay for patient specific assistive hardware related to  
29 dispensed prescriptions including but not limited to audible  
30 prescription labels for covered persons with visual impairment to  
31 understand prescription label content.

32 (3) If a covered person is using a mail order pharmacy, the  
33 pharmacy benefit manager shall:

34 (a) Allow for dispensing at local network pharmacies under the  
35 following circumstances to ensure patient access to prescription  
36 drugs:

37 (i) If the mail order prescription is delayed more than one day;  
38 or

39 (ii) If the prescription drug arrives in an unusable condition;  
40 and

1 (b) Ensure patients have easy and timely access to prescription  
2 counseling by a pharmacist.

3 **Sec. 7.** RCW 48.200.280 and 2020 c 240 s 15 are each amended to  
4 read as follows:

5 (1) ~~((The definitions in this subsection apply throughout this  
6 section unless the context clearly requires otherwise.~~

7 ~~(a) "List" means the list of drugs for which predetermined  
8 reimbursement costs have been established, such as a maximum  
9 allowable cost or maximum allowable cost list or any other benchmark  
10 prices utilized by the pharmacy benefit manager and must include the  
11 basis of the methodology and sources utilized to determine  
12 multisource generic drug reimbursement amounts.~~

13 ~~(b) "Multiple source drug" means a therapeutically equivalent  
14 drug that is available from at least two manufacturers.~~

15 ~~(c) "Multisource generic drug" means any covered outpatient  
16 prescription drug for which there is at least one other drug product  
17 that is rated as therapeutically equivalent under the food and drug  
18 administration's most recent publication of "Approved Drug Products  
19 with Therapeutic Equivalence Evaluations;" is pharmaceutically  
20 equivalent or bioequivalent, as determined by the food and drug  
21 administration; and is sold or marketed in the state during the  
22 period.~~

23 ~~(d) "Network pharmacy" means a retail drug outlet licensed as a  
24 pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit  
25 manager.~~

26 ~~(e) "Therapeutically equivalent" has the same meaning as in RCW  
27 69.41.110.~~

28 ~~(2-))~~ A pharmacy benefit manager:

29 (a) May not place a drug on a list unless there are at least two  
30 therapeutically equivalent multiple source drugs, or at least one  
31 generic drug available from only one manufacturer, generally  
32 available for purchase by network pharmacies from national or  
33 regional wholesalers;

34 (b) Shall ensure that all drugs on a list are readily available  
35 for purchase by pharmacies in this state from national or regional  
36 wholesalers that serve pharmacies in Washington;

37 (c) Shall ensure that all drugs on a list are not obsolete;

38 (d) Shall make available to each network pharmacy at the  
39 beginning of the term of a contract, and upon renewal of a contract,

1 the sources utilized to determine the predetermined reimbursement  
2 costs for (~~multisource-generic~~) multiple source drugs of the  
3 pharmacy benefit manager;

4 (e) Shall make a list available to a network pharmacy upon  
5 request in a format that is readily accessible to and usable by the  
6 network pharmacy;

7 (f) Shall update each list maintained by the pharmacy benefit  
8 manager every seven business days and make the updated lists,  
9 including all changes in the price of drugs, available to network  
10 pharmacies in a readily accessible and usable format;

11 (g) Shall ensure that dispensing fees are not included in the  
12 calculation of the predetermined reimbursement costs for  
13 (~~multisource-generic~~) multiple source drugs;

14 (h) May not cause or knowingly permit the use of any  
15 advertisement, promotion, solicitation, representation, proposal, or  
16 offer that is untrue, deceptive, or misleading;

17 (i) May not charge a pharmacy a fee related to the adjudication  
18 of a claim, credentialing, participation, certification,  
19 accreditation, or enrollment in a network including, but not limited  
20 to, a fee for the receipt and processing of a pharmacy claim, for the  
21 development or management of claims processing services in a pharmacy  
22 benefit manager network, or for participating in a pharmacy benefit  
23 manager network;

24 (j) May not require accreditation standards inconsistent with or  
25 more stringent than accreditation standards established by a national  
26 accreditation organization;

27 (k) May not reimburse a pharmacy in the state an amount less than  
28 the amount the pharmacy benefit manager reimburses an affiliate for  
29 providing the same pharmacy services; and

30 (l) May not directly or indirectly retroactively deny or reduce a  
31 claim or aggregate of claims after the claim or aggregate of claims  
32 has been adjudicated, unless:

33 (i) The original claim was submitted fraudulently; or

34 (ii) The denial or reduction is the result of a pharmacy audit  
35 conducted in accordance with RCW 48.200.220 (as recodified by this  
36 act).

37 (~~(3)~~) (2) A pharmacy benefit manager must establish a process  
38 by which a network pharmacy, or its representative, may appeal its  
39 reimbursement for a drug (~~(subject to predetermined reimbursement~~  
40 ~~costs for multisource-generic drugs)~~). A network pharmacy may appeal

1 a (~~predetermined~~) reimbursement cost for a (~~multisource-generic~~)  
2 drug if the reimbursement for the drug is less than the net amount  
3 that the network pharmacy paid to the supplier of the drug. An appeal  
4 requested under this section must be completed within thirty calendar  
5 days of the pharmacy submitting the appeal. If after thirty days the  
6 network pharmacy has not received the decision on the appeal from the  
7 pharmacy benefit manager, then the appeal is considered denied.

8 The pharmacy benefit manager shall uphold the appeal of a  
9 pharmacy with fewer than fifteen retail outlets, within the state of  
10 Washington, under its corporate umbrella if the pharmacy or  
11 pharmacist can demonstrate that it is unable to purchase a  
12 therapeutically equivalent interchangeable product from a supplier  
13 doing business in Washington at the pharmacy benefit manager's  
14 (~~list~~) paid price.

15 (~~(4)~~) (3) A pharmacy benefit manager must provide as part of  
16 the appeals process established under subsection (~~(3)~~) (2) of this  
17 section:

18 (a) A telephone number at which a network pharmacy may contact  
19 the pharmacy benefit manager and speak with an individual who is  
20 responsible for processing appeals; and

21 (b) If the appeal is denied, the reason for the denial and the  
22 national drug code of a drug that has been purchased by other network  
23 pharmacies located in Washington at a price that is equal to or less  
24 than the (~~predetermined~~) paid reimbursement cost for the  
25 (~~multisource-generic~~) drug. A pharmacy with fifteen or more retail  
26 outlets, within the state of Washington, under its corporate umbrella  
27 may submit information to the commissioner about an appeal under  
28 subsection (~~(3)~~) (2) of this section for purposes of information  
29 collection and analysis.

30 (~~(5)~~) (4) (a) If an appeal is upheld under this section, the  
31 pharmacy benefit manager shall make a reasonable adjustment on a date  
32 no later than one day after the date of determination.

33 (b) If the request for an adjustment has come from a critical  
34 access pharmacy, as defined by the state health care authority by  
35 rule for purposes related to the prescription drug purchasing  
36 consortium established under RCW 70.14.060, the adjustment approved  
37 under (a) of this subsection shall apply only to critical access  
38 pharmacies.

39 (~~(6)~~) (5) Beginning July 1, 2017, if a network pharmacy appeal  
40 to the pharmacy benefit manager is denied, or if the network pharmacy

1 is unsatisfied with the outcome of the appeal, the pharmacy or  
2 pharmacist may dispute the decision and request review by the  
3 commissioner within thirty calendar days of receiving the decision.

4 (a) All relevant information from the parties may be presented to  
5 the commissioner, and the commissioner may enter an order directing  
6 the pharmacy benefit manager to make an adjustment to the disputed  
7 claim, deny the pharmacy appeal, or take other actions deemed fair  
8 and equitable. An appeal requested under this section must be  
9 completed within thirty calendar days of the request.

10 (b) Upon resolution of the dispute, the commissioner shall  
11 provide a copy of the decision to both parties within seven calendar  
12 days.

13 (c) The commissioner may authorize the office of administrative  
14 hearings, as provided in chapter 34.12 RCW, to conduct appeals under  
15 this subsection (~~((+6))~~) (5).

16 (d) A pharmacy benefit manager may not retaliate against a  
17 pharmacy for pursuing an appeal under this subsection (~~((+6))~~) (5).

18 (e) This subsection (~~((+6))~~) (5) applies only to a pharmacy with  
19 fewer than fifteen retail outlets, within the state of Washington,  
20 under its corporate umbrella.

21 (~~((+7))~~) (6) This section does not apply to the state medical  
22 assistance program.

23 NEW SECTION. **Sec. 8.** The commissioner may adopt any rules  
24 necessary to implement this act.

25 NEW SECTION. **Sec. 9.** Sections 3 through 6 and 8 of this act  
26 constitute a new chapter in Title 48 RCW.

27 NEW SECTION. **Sec. 10.** RCW 48.200.210, 48.200.220, 48.200.230,  
28 48.200.240, 48.200.250, 48.200.260, 48.200.270, 48.200.280, and  
29 48.200.290 are each recodified as sections in chapter 48.--- RCW (the  
30 new chapter created in section 9 of this act).

31 NEW SECTION. **Sec. 11.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 12.**    This act takes effect January 1, 2025.

--- **END** ---