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HOUSE BILL NO. 2392

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 38.2-3465 of the Code of Virginia, relating to health insurance; pharmacy benefits managers; definition of covered entity.

Patron—Sickles

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3465 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3465. Definitions.

A. As used in this article, unless the context requires a different meaning:

"Aggregate retained rebate percentage" means the sum total dollar amount of a pharmacy benefits manager's retained rebates relating to all carrier clients of such pharmacy benefits manager divided by the sum total dollar amount of all rebates received by such pharmacy benefits manager relating to all such clients.

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15. However, "carrier" does not include a nonprofit health maintenance organization that operates as a group model whose internal pharmacy operation exclusively serves the members or patients of the nonprofit health maintenance organization.

"Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of administering, filling, or refilling a prescription for a drug or for providing a medical supply or device.

"Claims processing services" means the administrative services performed in connection with the processing and adjudicating of claims relating to pharmacist services that include (i) receiving payments for pharmacist services, (ii) making payments to pharmacists or pharmacies for pharmacist services, or (iii) both receiving and making payments.

"Contract pharmacy" means a pharmacy operating under contract with a 340B-covered entity to provide dispensing services to the 340B-covered entity, as described in 75 Fed. Reg. 10272 (March 5, 2010) or any superseding guidance published thereafter.

"Covered entity" means an entity described in § 340B(a)(4) of the federal Public Health Service Act, 42 U.S.C. § 256B(a)(4). ~~"Covered entity" does not include a hospital as defined in § 32.1-123 or 37.2-100.~~

"Covered individual" means an individual receiving prescription medication coverage or reimbursement provided by a pharmacy benefits manager or a carrier under a health benefit plan.

"Health benefit plan" has the same meaning ascribed thereto in § 38.2-3438.

"Mail order pharmacy" means a pharmacy whose primary business is to receive prescriptions by mail or through electronic submissions and to dispense medication to covered individuals through the use of the United States mail or other common or contract carrier services and that provides any consultation with covered individuals electronically rather than face-to-face.

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a carrier for the benefit of covered individuals. "Pharmacy benefits management" does not include any service provided by a nonprofit health maintenance organization that operates as a group model provided that the service is furnished through the internal pharmacy operation exclusively serves the members or patients of the nonprofit health maintenance organization.

"Pharmacy benefits manager" or "PBM" means an entity that performs pharmacy benefits management. "Pharmacy benefits manager" includes an entity acting for a PBM in a contractual relationship in the performance of pharmacy benefits management for a carrier, nonprofit hospital, or third-party payor under a health program administered by the Commonwealth.

"Pharmacy benefits manager affiliate" means a business, pharmacy, or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership interest or control with a pharmacy benefits manager.

"Rebate" means a discount or other price concession, including without limitation incentives, disbursements, and reasonable estimates of a volume-based discount, or a payment that is (i) based on utilization of a prescription drug and (ii) paid by a manufacturer or third party, directly or indirectly, to a pharmacy benefits manager, pharmacy services administrative organization, or pharmacy after a claim has been processed and paid at a pharmacy.

"Retail community pharmacy" means a pharmacy that is open to the public, serves walk-in customers, and makes available face-to-face consultations between licensed pharmacists and persons to whom medications are dispensed.

59 "Retained rebate" means a rebate that is not passed on to a health benefit plan.

60 "Retained rebate percentage" means the sum total dollar amount of a pharmacy benefits manager's
61 retained rebates relating to a health benefit plan divided by the sum total dollar amount of all rebates received
62 by such pharmacy benefits manager relating to such health benefit plan.

63 "Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager
64 charges a health benefit plan a contracted price for prescription drugs, and the contracted price for the
65 prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the
66 pharmacist or pharmacy for pharmacist services.