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SENATE BILL NO. 1359

Offered January 13, 2025

Prefiled January 13, 2025

A BILL to amend and reenact §§ 38.2-3467 and 38.2-3469 of the Code of Virginia, relating to prohibited conduct by health carriers and pharmacy benefits managers; civil penalty; enforcement.

Patrons—Srinivasan and Hashmi

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3467 and 38.2-3469 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3467. Prohibited conduct by carriers and pharmacy benefits managers; civil penalty.

A. No carrier on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager shall:

1. Cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue;

2. Charge a pharmacist or pharmacy a fee related to the adjudication of a claim other than a reasonable fee for an initial claim submission;

3. Reimburse a pharmacy or pharmacist an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate for providing the same pharmacist services, calculated on a per-unit basis using the same generic product identifier or generic code number and reflecting all drug manufacturer's rebates, direct and indirect administrative fees, and costs and any remuneration;

4. Penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this article;

5. Impose requirements, exclusions, reimbursement terms, or other conditions on a covered entity or contract pharmacy that differ from those applied to entities or pharmacies that are not covered entities or contract pharmacies on the basis that the entity or pharmacy is a covered entity or contract pharmacy or that the entity or pharmacy dispenses 340B-covered drugs. Nothing in this subdivision shall (i) apply to drugs with an annual estimated per-patient cost exceeding \$250,000 or (ii) prohibit the identification of a 340B reimbursement request; ~~or~~

6. Interfere with a covered individual's right to choose a pharmacy or provider, based on the pharmacy or provider's status as a covered entity or contract pharmacy;

7. *Require a covered individual, as a condition of payment or reimbursement, to purchase pharmacist services, including prescription drugs, exclusively through a mail-order pharmacy or retail pharmacy affiliated with a pharmacy benefits manager; or*

8. *Prohibit or limit any covered individual from selecting a pharmacy or pharmacist of his choice that has agreed to participate in the health benefit plan according to the terms offered by the health benefit plan.*

B. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager, shall restrict participation of a pharmacy in a pharmacy network for provider accreditation standards or certification requirements if a pharmacist meets such accreditation standards or certification standards.

C. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager, shall include any mail order pharmacy or pharmacy benefits manager affiliate in calculating or determining network adequacy under any law or contract in the Commonwealth.

D. No carrier, on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager, shall conduct spread pricing in the Commonwealth.

E. Each carrier on its own or through its contracted pharmacy benefits manager or representative of a pharmacy benefits manager shall comply with the provisions of this section in addition to complying with the provisions of § 38.2-3407.15:1.

F. *Any individual or entity that violates the provisions of this section may be subject to a civil penalty of \$5,000 for each day on which such violation occurs.*

§ 38.2-3469. Enforcement; investigative authority; regulations.

A. The Commission shall enforce this article.

B. *The Commission shall have the power to examine and investigate the affairs of any person engaged or alleged to be engaged in pharmacy benefits management services in the Commonwealth to determine whether the individual or entity has engaged or is engaging in any violation of this article.*

C. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this article.

INTRODUCED

SB1359