~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 20, 2018

**S. 815**

Introduced by Senators Gambrell and Shealy

S. Printed 2/20/18--S.

Read the first time January 9, 2018.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 815) to amend the Code of Laws of South Carolina, 1976, by adding Section 38‑71‑2150 so as to establish prohibited acts for pharmacy benefit managers and to provide, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 20, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑2150. A pharmacy benefit manager may not:

(1) prohibit a pharmacist or pharmacy from providing an insured information on the amount of the insured’s cost share for a prescription drug. A pharmacist or pharmacy may not be penalized by a pharmacy benefit manager for discussing such information to an insured or for selling a more affordable alternative to the insured if one is available;

(2) prohibit a pharmacist or pharmacy from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy;

(3) charge or collect a copayment from an insured that exceeds the total submitted charges by the network pharmacy;

(4) charge or hold a pharmacist or pharmacy responsible for a fee relating to the adjudication of a claim unless the fee is reported on the remittance advice of the adjudicated claim or is set out in contract between the pharmacy benefits manager and the pharmacy. This section does not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D; or

(5) penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this chapter.”

SECTION 2. This act takes effect on July 1, 2018. /

Renumber sections to conform.

Amend title to conform.

RONNIE W. CROMER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑2150 SO AS TO ESTABLISH PROHIBITED ACTS FOR PHARMACY BENEFIT MANAGERS AND TO PROVIDE EXCEPTIONS UNDER CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 38‑71‑2130, RELATING TO THE DUTIES OF A PHARMACY BENEFIT MANAGER, SO AS TO REQUIRE A PHARMACY BENEFIT MANAGER TO REIMBURSE A PROVIDER WITHIN SEVEN BUSINESS DAYS OF PAYMENT BY A PAYOR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 20, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑2150. A pharmacy benefit manager may not:

(1) prohibit a pharmacist or pharmacy from providing an insured information on the amount of the insured’s cost share for a prescribed drug and the clinical efficacy of an alternative drug, if available. The pharmacist or pharmacy may not be penalized by a pharmacy benefit manager for disclosing such information to an insured or for selling an available alternative drug;

(2) prohibit a pharmacist or pharmacy from offering and providing direct delivery services to an insured as an ancillary service of the pharmacy;

(3) require an insured to use a mail‑order pharmaceutical distributor including, but not limited to, a mail‑order pharmacy;

(4) charge or collect a copayment from an insured that exceeds the total submitted charges by the network pharmacy for which the pharmacy is paid;

(5) charge or hold a pharmacist or pharmacy responsible for a fee relating to the adjudication of a claim;

(6) recoup funds from a pharmacy in connection with claims for which the pharmacy has already been paid without first complying with the requirements of Article 18 of this chapter;

(7) penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this chapter; or

(8) prohibit a pharmacist or pharmacy from communicating with payors or other parties regarding contractual issues.”

SECTION 2. Section 38‑71‑2130 of the 1976 Code, as added by Act 163 of 2016, is amended to read:

“Section 38‑71‑2130. A pharmacy benefit manager must:

(1) make available to each network provider at the beginning of the term of the network provider’s contract, and upon renewal of the contract, the sources utilized to determine the maximum allowable cost pricing;

(2) provide a process for network pharmacy providers to readily access the maximum allowable cost specific to that provider;

(3) review and update maximum allowable cost price information at least once every seven business days to reflect any modification of maximum allowable cost pricing; ~~and~~

(4) ensure that dispensing fees are not included in the calculation of maximum allowable cost; and

(5) reimburse a provider within seven business days of payment by a payor unless the claim is disputed.”

SECTION 3. This act takes effect on July 1, 2018.

‑‑‑‑XX‑‑‑‑