

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 17, 2023
Date

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB23-1201 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 20.
- 2 Strike pages 3 through 7.
- 3 Page 8, strike lines 1 through 6.
- 4 Renumber succeeding sections accordingly.
- 5 Page 8, line 20, after "2025," insert "AND EACH CALENDAR YEAR
6 THEREAFTER,".
- 7 Page 8, strike line 21 and substitute "SHALL DISCLOSE TO EACH
8 POLICYHOLDER OR THE POLICYHOLDER'S SPECIFICALLY DESIGNATED
9 BROKER OR CONSULTANT THE".
- 10 Page 8, line 26, after "DISCLOSURES" insert "REQUIRED".
- 11 Page 9, strike lines 20 and 21 and substitute:
12 "(VI) THE AVERAGE REBATE ACROSS ALL PAID PRESCRIPTIONS FOR
13 THE RESPECTIVE GROUP HEALTH BENEFIT PLAN AND THE AVERAGE REBATE
14 ACROSS ALL PAID PRESCRIPTIONS THAT PAY A REBATE FOR THE
15 RESPECTIVE GROUP HEALTH BENEFIT PLAN; AND".
- 16 Page 9, line 25, after "2025," insert "AND EACH CALENDAR YEAR
17 THEREAFTER,".
- 18 Page 10, line 1, strike "2025".

1 Page 10, strike lines 2 and 3 and substitute "WERE IN EFFECT THE
2 PREVIOUS CALENDAR YEAR, ANNUALIZING THE PREVIOUS YEAR'S ACTUAL
3 DATA FOR EACH RESPECTIVE CERTIFICATE".

4 Page 10, line 15, strike "CALENDAR YEAR 2025".

5 Page 10, after line 22 insert:

6 "(f) THE DISCLOSURES REQUIRED IN SUBSECTIONS (2)(b)(VI) AND
7 (2)(b)(VII) OF THIS SECTION MUST NOT DISCLOSE ANY PROPRIETARY
8 REBATE INFORMATION BETWEEN A DRUG MANUFACTURER AND THE
9 PHARMACY BENEFIT MANAGER OR ITS CARRIER AFFILIATE. THE
10 DISCLOSURE OF DATA REQUIRED BY THESE SUBSECTIONS MUST REPRESENT
11 THE AGGREGATE VALUE OF REBATES PASSING THROUGH FROM THE
12 PHARMACY BENEFIT MANAGER OR ITS CARRIER AFFILIATE TO THE HEALTH
13 BENEFIT PLAN AS DEFINED BY RULE OF THE COMMISSIONER."

14 Page 10, strike lines 23 and 24 and substitute:

15 "(3) THE COMMISSIONER".

16 Page 11, line 1, strike "SECTION AND MAY, AS APPROPRIATE," and
17 substitute "SECTION."

18 Page 11, strike lines 2 and 3.

19 Page 11, line 4, strike "FINANCING."

20 Page 11, strike lines 5 and 6 and substitute "BY THE DIVISION,".

21 Page 11, line 7, strike "APPROPRIATE,".

22 Page 11, strike lines 20 through 22 and substitute "INFORMATION,
23 AVAILABLE ONLY TO THE COMMISSIONER AND THE COMMISSIONER'S
24 AUDITING DESIGNEE AND IS NOT SUBJECT TO".

25 Page 11, after line 27 insert:

26 "(6) (a) THE REQUIREMENTS OF SUBSECTIONS (1), (2), AND (4) OF
27 THIS SECTION APPLY TO AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN,
28 AN ASSOCIATED PHARMACY BENEFIT MANAGER, AND THE HEALTH BENEFIT
29 PLAN MEMBERS ONLY IF A PERSON, TAFT-HARTLEY TRUST, MUNICIPALITY,

1 STATE, LABOR UNION, PLAN SPONSOR, OR EMPLOYER THAT PROVIDES THE
2 EMPLOYER-SPONSORED HEALTH BENEFIT PLAN ELECTS TO BE SUBJECT TO
3 SUBSECTIONS (1), (2), AND (4) OF THIS SECTION FOR ITS MEMBERS THAT
4 RESIDE IN COLORADO.

5 (b) AS USED IN THIS SUBSECTION (6), "PHARMACY BENEFIT
6 MANAGER" MEANS AN ENTITY DOING BUSINESS IN THIS STATE THAT
7 ADMINISTERS OR MANAGES PRESCRIPTION DRUG BENEFITS, INCLUDING
8 CLAIMS PROCESSING SERVICES AND OTHER PRESCRIPTION DRUG OR DEVICE
9 SERVICES AS DEFINED IN SECTION 10-16-122.1, THAT IS IN A CONTRACTUAL
10 RELATIONSHIP DIRECTLY OR INDIRECTLY THROUGH AN AFFILIATE WITH AN
11 EMPLOYER-SPONSORED HEALTH BENEFIT PLAN, WHICH INCLUDES PLANS
12 THAT ARE SELF-INSURED OR REGULATED BY THE FEDERAL "EMPLOYEE
13 RETIREMENT INCOME SECURITY ACT OF 1974", 29 U.S.C. SEC. 1001 ET
14 SEQ., AS AMENDED, OFFERED BY:

- 15 (I) A PERSON;
- 16 (II) A TAFT-HARTLEY TRUST;
- 17 (III) A MUNICIPALITY;
- 18 (IV) THE STATE;
- 19 (V) A LABOR UNION;
- 20 (VI) A PLAN SPONSOR;
- 21 (VII) AN EMPLOYER; OR
- 22 (VIII) A COALITION OF EMPLOYERS OR AGGREGATION OF
23 EMPLOYERS WORKING TOGETHER TO NEGOTIATE IMPROVED CONTRACT
24 TERMS WITH A PHARMACY BENEFIT MANAGER."

25 Renumber succeeding subsection accordingly.

26 Page 12, after line 13 insert:

27 "SECTION 2. In Colorado Revised Statutes, add 25.5-1-133 as
28 follows:

29 **25.5-1-133. Prescription benefits - department and pharmacy**
30 **manager - contracts - audit - rules.** (1) FOR CONTRACTS BETWEEN A
31 PHARMACY BENEFIT MANAGER AND THE STATE DEPARTMENT OR ONE OF
32 ITS AFFILIATED MANAGED CARE ORGANIZATIONS OFFERING A
33 PRESCRIPTION BENEFIT PLAN THAT IS ISSUED OR RENEWED ON OR AFTER
34 JANUARY 1, 2025, THE AMOUNT CHARGED BY THE PHARMACY BENEFIT
35 MANAGER TO THE STATE DEPARTMENT OR MANAGED CARE ORGANIZATION
36 FOR A PRESCRIPTION DRUG DISPENSED TO AN ENROLLEE IN THE PROGRAM
37 OF MEDICAL ASSISTANCE CREATED PURSUANT TO SECTION 25.5-4-104
38 MUST BE EQUAL TO OR LESS THAN THE AMOUNT PAID BY THE PHARMACY
39 BENEFIT MANAGER TO A MEDICAID PHARMACY FOR THE PRESCRIPTION
40 DRUG DISPENSED TO THE ENROLLEE.

1 (2) THE STATE BOARD SHALL PROMULGATE RULES TO IMPLEMENT
2 THIS SECTION, INCLUDING RULES GUIDING AN AUDIT OF MANAGED CARE OR
3 FEE-FOR-SERVICE CLAIMS, TO ENSURE THAT THERE IS NO VIOLATION OF
4 SUBSECTION (1) OF THIS SECTION."

5 Renumber succeeding section accordingly.

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