

HOUSE BILL NO. 740

INTRODUCED BY M. BERTOGLIO, M. THANE, Z. WIRTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO PHARMACIES, PHARMACY BENEFIT MANAGERS, AND OTHER ENTITIES; PROVIDING LAWS RELATING TO THE RECOUPMENT OF FUNDS; PROVIDING DEFINITIONS; REVISING LAWS RELATED TO MAXIMUM ALLOWABLE COST OR THE REFERENCE PRICE LIST; PROHIBITING CERTAIN FEES; ~~EXEMPTING THE GROUP HEALTH INSURANCE PLAN OF CERTAIN EMPLOYEES; AND~~ AMENDING SECTIONS 33-2-2005, 33-22-170, 33-22-171, 33-22-172, 33-22-175, AND 33-22-177, AND 39-71-727, MCA; AND PROVIDING AN APPLICABILITY SECTION AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-2-2005, MCA, is amended to read:

"33-2-2005. Prohibitions -- recoupment -- payment -- interest. An entity conducting an audit may not:

(1) include dispensing fees unless a prescription was not actually dispensed, the prescriber denied authorization, the prescription dispensed was a dispensing error by the pharmacy, or the identified overpayment is based solely on an extra dispensing fee;

(2) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors, in a required document or record unless the error results in actual financial harm to the entity or to a consumer;

(3) collect any funds, charge-backs, or penalties until the audit and all appeals are final unless the entity is alleging fraud or other intentional or willful misrepresentation that is evidenced by the review of claims data, statements, physical review, or other investigative methods;

(4) use extrapolation or other statistical expansion techniques in calculating the amount of any recoupment or penalty;

(5) pay the agent or employee who conducted the audit based on a percentage of the amount

Amendment - 2nd Reading-yellow - Requested by: Barry Usher - (S) Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Julie Johnson,

HB0740.004.001

(3) — The pharmacist may bill only for the cost of the generic name product on a signed itemized billing, except if purchase of the brand name drug is allowed as provided in subsection (1).

(4) — When billing for a brand name drug, the pharmacist shall certify that the generic name drug was unavailable.

(5) — The department shall establish a schedule of fees for prescription drugs.

(6) — Except as provided in subsection (8), a pharmacist may not dispense more than a 30-day supply at any one time.

(7) — For purposes of this section, the terms "brand name" and "generic name" have the meanings provided in 37-7-502.

(8) — An insurer may not require a worker receiving benefits under this chapter to obtain medications from an out of state mail service pharmacy. However, an insurer may authorize up to a 90-day supply of medications from an in-state mail service pharmacy.

(9) — The provisions of this section do not apply to an agreement between a preferred provider organization and an insurer."

NEW SECTION. SECTION 7. — APPLICABILITY. [THIS ACT] DOES NOT APPLY TO THE GROUP HEALTH INSURANCE PLAN FOR STATE EMPLOYEES UNDER TITLE 2, CHAPTER 18, PART 7.

NEW SECTION. SECTION 7. APPLICABILITY. [THIS ACT] APPLIES TO CONDUCT OCCURRING ON OR AFTER OCTOBER 1, 2025.

NEW SECTION. Section 8. Termination. [This act] terminates June 30, 2029.

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