

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 25-0095.03 Kristen Forrestal x4217

HOUSE BILL 25-1094

HOUSE SPONSORSHIP

Brown and Johnson, Bacon, Bird, Boesenecker, Duran, English, Joseph, Lieder, Lindsay, McCluskie, McCormick, Paschal, Sirota, Smith, Stewart K., Valdez, Woodrow, Zokaie

SENATE SPONSORSHIP

Pelton B. and Roberts,

House Committees

Health & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PHARMACY BENEFIT MANAGER PRACTICES THAT AFFECT**
102 **PRESCRIPTION DRUG COSTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill:

- Allows a pharmacy benefit manager (PBM) to earn income derived from the assessment of a flat-dollar service fee;
- Prohibits a PBM from earning income based on the cost of a prescription drug;
- Prohibits a PBM from designing a formulary to favor a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

HOUSE
3rd Reading Unamended
March 17, 2025

HOUSE
Amended 2nd Reading
March 14, 2025

- certain branded pharmaceutical or biologic;
- Sets the amount that a PBM shall reimburse an unaffiliated pharmacy or a PBM-affiliated retail, mail order, or specialty pharmacy for a prescription drug;
- Requires a PBM to credit income derived from a source other than a flat-dollar service fee to a health insurance carrier (carrier) or a self-funded health benefit plan; and
- Requires a PBM to make certain documents and data available to a carrier, a self-funded plan, or the commissioner of insurance upon request.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-122.8 as
3 follows:

4 **10-16-122.8. Pharmacy benefit manager practices -**
5 **agreements - fees - documentation - rules.** (1) A PHARMACY BENEFIT
6 MANAGER MAY EARN INCOME DERIVED FROM THE ASSESSMENT OF A
7 SINGLE, FLAT-DOLLAR SERVICE FEE FOR THE PROVISION OF A PRESCRIPTION
8 DRUG, WHICH SERVICE FEE IS TRANSPARENTLY EXPRESSED IN A WRITTEN
9 AGREEMENT BETWEEN THE PBM AND █ HEALTH BENEFIT PLAN. THE
10 SINGLE, FLAT-DOLLAR SERVICE FEE MAY VARY FROM CLIENT TO CLIENT OF
11 THE PBM BASED ON THE NUMBER OF HEALTH BENEFIT PLAN
12 PARTICIPANTS, CLINICAL AND ADMINISTRATIVE SERVICES PROVIDED,
13 VALUE-BASED PAYMENT ARRANGEMENT, AND OTHER CONSIDERATIONS.

14 (2) (a) THROUGHOUT THE COURSE OF PROVIDING PRESCRIPTION
15 DRUG BENEFITS AND CLAIMS PROCESSING SERVICES FOR HEALTH BENEFIT
16 PLANS, A PBM SHALL NOT:

17 (I) EARN ANY INCOME THAT IS DIRECTLY OR INDIRECTLY BASED ON
18 THE NET ACQUISITION COST OF A PRESCRIPTION DRUG, INCLUDING INCOME
19 FROM PRESCRIPTION DRUG MARK-UPS, COPAYMENTS THAT EXCEED THE
20 COST OF PRESCRIPTION DRUGS, UP-CHARGING OR SPREAD-PRICING, GROUP

1 PURCHASING ORGANIZATION REVENUES, MANUFACTURER-DERIVED
2 REVENUES, OR ANY OTHER ARRANGEMENTS CONCERNING THE PRICING OF
3 PRESCRIPTION DRUGS; OR

4 (II) DESIGN A PRESCRIPTION DRUG FORMULARY TO FAVOR A
5 CERTAIN BRANDED PHARMACEUTICAL OR BIOLOGIC OVER A
6 THERAPEUTICALLY EQUIVALENT GENERIC OR BIOSIMILAR, UNLESS THE
7 BRANDED PHARMACEUTICAL OR BIOLOGIC HAS A LOWER [REDACTED] NET
8 ACQUISITION COST AND THAT LOWER COST IS REFLECTED IN A LOWER
9 OUT-OF-POCKET EXPENSE FOR CONSUMERS.

10 (b) IF A PBM, WHICH MAY BE A PARENT OR SUBSIDIARY ENTITY TO
11 OR OTHERWISE INTEGRATED WITH AN INSURANCE CARRIER THAT OFFERS
12 A HEALTH BENEFIT PLAN, INADVERTENTLY COLLECTS INCOME DERIVED
13 FROM SOURCES PROHIBITED BY SUBSECTION (2)(a)(I) OF THIS SECTION, THE
14 PBM SHALL PASS THE INCOME THROUGH TO THE HEALTH BENEFIT PLAN
15 BENEFICIARIES.

16 (c) A PBM MUST BE REIMBURSED BY A HEALTH BENEFIT PLAN FOR
17 LOWERING AGGREGATED PRESCRIPTION DRUG SPENDING FOR THE PLAN
18 OVER A GIVEN PERIOD OF TIME. A PBM MUST ALSO BE REIMBURSED FOR
19 THE DIRECT SERVICES THE PBM PROVIDES TO THE HEALTH BENEFIT PLAN.

20 (d) A PBM MAY INCLUDE IN ITS CONTRACTS OR OTHER
21 AGREEMENTS WITH PRESCRIPTION DRUG MANUFACTURERS PROVISIONS
22 THAT LIMIT THE INCREASE OF THE WHOLESALE ACQUISITION COST OF
23 PRESCRIPTION DRUGS THAT THEY INCLUDE IN THEIR FORMULARIES AND
24 BENEFIT DESIGNS.

25 (e) THIS SUBSECTION (2) DOES NOT PREVENT A PBM FROM
26 NEGOTIATING A PRESCRIPTION DRUG REBATE OR OTHER DISCOUNT AS A
27 PERCENTAGE OF THE PRESCRIPTION DRUG'S LIST PRICE.

1 (3) THROUGHOUT THE COURSE OF PROVIDING PRESCRIPTION DRUG
2 BENEFITS AND CLAIMS PROCESSING SERVICES FOR HEALTH BENEFIT PLANS,
3 A PBM SHALL REIMBURSE AN UNAFFILIATED PHARMACY OR A
4 PBM-AFFILIATED RETAIL, MAIL ORDER, OR SPECIALTY PHARMACY FOR THE
5 FULFILLMENT OF A PRESCRIPTION DRUG IN AN AMOUNT EQUAL TO THE
6 NATIONAL AVERAGE DRUG ACQUISITION COST FOR THE DISPENSED
7 PRESCRIPTION DRUG INGREDIENTS AND A REASONABLE AND ADEQUATE
8 DISPENSING FEE. IF THE NATIONAL AVERAGE DRUG ACQUISITION COST IS
9 NOT AVAILABLE AT THE TIME A PRESCRIPTION DRUG IS ADMINISTERED OR
10 DISPENSED, A PBM SHALL NOT REIMBURSE IN AN AMOUNT THAT IS LESS
11 THAN THE WHOLESALE ACQUISITION COST OF THE PRESCRIPTION DRUG.

12
13 (4) (a) A CONTRACT BETWEEN A PBM AND A COVERED PERSON'S
14 HEALTH BENEFIT PLAN MUST INCLUDE A PROVISION THAT REQUIRES THE
15 PBM TO DISCLOSE PRESCRIPTION DRUG COST INFORMATION TO THE
16 HEALTH BENEFIT PLAN, INCLUDING CLAIMS-LEVEL PHARMACY DATA AND
17 PBM INCOME DERIVED FROM PROHIBITED SOURCES THAT THE PBM MUST
18 PASS THROUGH TO THE HEALTH BENEFITS PLAN IN ACCORDANCE WITH
19 SUBSECTION (2)(b) OF THIS SECTION. THE INFORMATION MUST BE
20 PROVIDED WITHIN THIRTY DAYS AFTER THE DATE OF THE NOTIFICATION TO
21 THE PBM BY THE HEALTH BENEFIT PLAN OR AT REGULAR NEGOTIATED
22 REPORTING INTERVALS NECESSARY FOR THE HEALTH BENEFIT PLAN TO
23 DETERMINE THE PBM'S COMPLIANCE WITH THE CONTRACT TERMS AND
24 THIS SECTION. THE PBM SHALL ASSESS NO ADDITIONAL FEES WITH
25 REGARD TO PROVISION OF THIS INFORMATION.

26 (b) THE CONTRACT BETWEEN THE PBM AND A COVERED PERSON'S
27 HEALTH BENEFIT PLAN MUST INCLUDE A PROVISION AUTHORIZING THE

1 COVERED PERSON'S HEALTH BENEFIT PLAN TO ANNUALLY EXECUTE AN
2 AUDIT FOR THE PURPOSE OF VALIDATING COMPLIANCE WITH CONTRACT
3 TERMS AND THIS SECTION.

4 (5) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO
5 ENFORCE THIS SECTION.

6 **SECTION 2. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect January 1, 2027; except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within the ninety-day period after final adjournment of the general
11 assembly, then the act, item, section, or part will not take effect unless
12 approved by the people at the general election to be held in November
13 2026 and, in such case, will take effect January 1, 2027, or on the date of
14 the official declaration of the vote thereon by the governor, whichever is
15 later.

16 (2) This act applies to conduct occurring on or after the applicable
17 effective date of this act.