A BILL FOR AN ACT

CONCERNING THE ABILITY OF A PERSON ELIGIBLE FOR PRESCRIPTION DRUG BENEFITS TO CHOOSE THE PHARMACY AT WHICH TO FILL A PRESCRIPTION DRUG ORDER.

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://www.leg.state.co.us/billsummaries.)

The bill prohibits a health benefit plan or pharmacy benefit management firm that covers pharmaceutical services, including prescription drug coverage, from:

! Limiting or restricting a covered person's ability to select a pharmacy at which to fill a prescription drug order.
pharmacy or pharmacist of the covered person's choice if certain conditions are met;

! Imposing a co-payment, fee, or other cost-sharing requirement for selecting a pharmacy of the covered person's choosing;

! Imposing other conditions on a covered person, pharmacist, or pharmacy that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing; or

! Denying a pharmacy or pharmacist the right to participate in any of its pharmacy network contracts in this state or as a contracting provider in this state if the pharmacy or pharmacist has a valid license in Colorado and the pharmacy or pharmacist agrees to specified conditions.

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

SECTION 1. In Colorado Revised Statutes, add 10-16-143 as follows:

10-16-143. Patient choice of pharmacy. (1) A HEALTH BENEFIT PLAN OR PHARMACY BENEFIT MANAGEMENT FIRM THAT COVERS PHARMACY SERVICES, INCLUDING PRESCRIPTION DRUG COVERAGE, SHALL NOT:

(a) LIMIT OR RESTRICT A COVERED PERSON'S ABILITY TO SELECT A PHARMACY OR PHARMACIST OF THE COVERED PERSON'S CHOICE IF THE PHARMACY OR PHARMACIST IS LICENSED UNDER ARTICLE 42.5 OF TITLE 12, C.R.S., AND THE PHARMACY OR PHARMACIST HAS AGREED TO THE TERMS OF THE CONTRACT OF THE HEALTH PLAN COMPANY OR PHARMACY BENEFIT PROVIDER;

(b) IMPOSE A CO-PAYMENT, FEE, OR OTHER COST-SHARING REQUIREMENT ON A COVERED PERSON, A PHARMACIST, OR A PHARMACY FOR THE COVERED PERSON'S SELECTION OF A PHARMACY UNLESS THE PROVIDER NETWORK CONTRACT OF THE HEALTH PLAN COMPANY OR PHARMACY BENEFIT MANAGER IMPOSES THE SAME CO-PAYMENT, FEE, OR
OTHER COST-SHARING REQUIREMENT ON ALL COVERED PERSONS, PHARMACISTS, OR PHARMACIES WITHIN THIS STATE;

(c) IMPOSE OTHER CONDITIONS ON A COVERED PERSON, PHARMACIST, OR PHARMACY THAT LIMIT OR RESTRICT AN COVERED PERSON'S ABILITY TO USE A PHARMACY OF THE COVERED PERSON'S CHOOSING; OR

(d) IF A COVERED PERSON SELCTS A PHARMACY OR PHARMACIST OF THE COVERED PERSON'S CHOICE, DENY THE CHOSEN PHARMACY OR PHARMACIST THE RIGHT TO PARTICIPATE IN ANY OF ITS PHARMACY NETWORK CONTRACTS IN THIS STATE OR AS A CONTRACTING PROVIDER IN THIS STATE IF THE PHARMACY OR PHARMACIST HAS A VALID LICENSE UNDER ARTICLE 42.5 OF TITLE 12, C.R.S., AND THE PHARMACY OR PHARMACIST AGREES TO:

(I) ACCEPT THE TERMS AND CONDITIONS OFFERED BY THE HEALTH PLAN COMPANY OR PHARMACY BENEFIT MANAGER; AND

(II) PROVIDE PHARMACY SERVICES THAT MEET STATE AND FEDERAL LAWS AND REGULATIONS.

(2) THIS SECTION DOES NOT APPLY TO PHARMACY SERVICES ADMINISTERED TO AN INDIVIDUAL RECEIVING INPATIENT OR EMERGENCY MEDICAL CARE IN A LICENSED OR CERTIFIED HEALTH FACILITY SUBJECT TO THE REQUIREMENTS OF SECTION 25-1.5-103, C.R.S.

(3) FOR PURPOSES OF THIS SECTION, "HEALTH BENEFIT MANAGEMENT PLAN" AND "PHARMACY BENEFIT MANAGEMENT FIRM" DO NOT INCLUDE:

(a) A CARRIER THAT OFFERS MANAGED CARE PLANS AND PROVIDES A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS EMPLOYED BY THE CARRIER OR THROUGH A SINGLE CONTRACTED MEDICAL
(b) A SELF-FUNDED PLAN THAT IS EXEMPT FROM STATE
REGULATION PURSUANT TO ERISA; OR
(c) A PLAN ISSUED FOR COVERAGE FOR STATE OR FEDERAL
EMPLOYEES.

SECTION 2. Act subject to petition - effective date -
applicability. (1) This act takes effect at 12:01 a.m. on the day following
the expiration of the ninety-day period after final adjournment of the
general assembly (August 10, 2016, if adjournment sine die is on May 11,
2016); except that, if a referendum petition is filed pursuant to section 1
(3) of article V of the state constitution against this act or an item, section,
or part of this act within such period, then the act, item, section, or part
will not take effect unless approved by the people at the general election
to be held in November 2016 and, in such case, will take effect on the
date of the official declaration of the vote thereon by the governor.

(2) This act applies to health benefit plans issued, delivered, or
renewed on or after January 1, 2018.