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DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
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FILING CAPTION: Market Conduct Requirements for Pharmacy Benefit Managers

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RULE TITLE: Market Conduct Requirements for Pharmacy Benefit Managers

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RULE SUMMARY: Adopted new requirements for Pharmacy Benefit Managers (PBMs) in Oregon.

RULE TEXT:

(1) A pharmacy benefit manager shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients as an ancillary service. A contract between a pharmacy benefit manager and a network pharmacy may establish limits and parameters on the pharmacy's mail, shipment and/or delivery of prescription drugs on the request of enrollees based on the pharmacy's total prescription volume. A pharmacy benefit manager is not required to reimburse a delivery fee charged by a network pharmacy unless the fee is specified in the contract between the pharmacy benefit manager and the pharmacy.

(2) Except as provided in subsection (6) of this section, a pharmacy benefit manager may require a prescription for a specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement of the cost of a drug.

(3) For the purposes of subsection (2) of this section, the department will consider a prescription drug to meet the definition of "specialty drug" under Oregon Laws 2019, chapter 526, section 4 if, to be properly dispensed according to standard industry practice, the drug:

(a) Requires specialized preparation, administration, handling, storage, inventory, reporting or distribution;

(b) Is associated with difficult or unusual data collection or administrative requirements; or

(c) Requires a pharmacist to manage the patient's use of the drug by monitoring, provide disease or therapeutic support systems, provide care coordination including collaboration with patients or other health care providers to manage adherence, identify side effects, monitor clinical parameters, assess responses to therapy, or document outcomes.

(4) For the purposes of subsection (2) of this section, a pharmacy may demonstrate to the department that it meets the definition of "specialty pharmacy" under Oregon Laws 2019, chapter 526, section 4 by showing that:

(a) Its business is primarily providing specialty drugs and specialized, disease-specific clinical care and services for people with serious or chronic health conditions requiring complex medication therapies; or

(b) It has been validated for meeting quality, safety and accountability standards for specialty pharmacy practice

through accreditation in specialty pharmacy by a nationally recognized, independent accreditation organization such as URAC or the Accreditation Commission for Health Care (ACHC).

(5) Nothing in subsection (4) of this section shall be construed to prohibit a pharmacy benefit manager from specifying additional terms and conditions for a specialty pharmacy network contract, including terms and conditions related to reimbursement.

(6) A pharmacy benefit manager shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy that is a long term care pharmacy, provided that the specialty drug is dispensed to an enrollee who is a resident of a long term care facility served by the long term care pharmacy.

(7) A network pharmacy may appeal its reimbursement from a pharmacy benefit manager for a drug subject to maximum allowable cost pricing on the basis that the drug is only available at the specified price if purchased in substantial quantities in excess of its business needs. For the purposes of this subsection, a quantity in excess of the business needs of a network pharmacy is defined as a purchase quantity greater than a 3-month supply based on the pharmacy's total dispensing history over the most recent rolling 12 months. A pharmacy benefit manager may require a network pharmacy appealing its reimbursement for a drug in accordance with this subsection to submit applicable evidence of its dispensing history to the pharmacy benefit manager as part of the appeal process. A pharmacy benefit manager's compliance with this subsection is sufficient to demonstrate compliance with Oregon Laws 2019, chapter 526, section 4 (1)(a)(B)(iii).

(8) If a prescription drug subject to a specified maximum allowable cost is available at that price if purchased in quantities that are consistent with the business needs of some pharmacies but inconsistent with the business needs of others, nothing in subsection (7) shall be construed to prohibit a pharmacy benefit manager from applying the maximum allowable cost to pharmacies that can purchase the drug in the necessary quantities consistent with their business needs.

STATUTORY/OTHER AUTHORITY: Or Laws 2019, ch 526

STATUTES/OTHER IMPLEMENTED: Or Laws 2019, ch 526