HOUSE BILL 246:
Revise Pharmacy Benefits Manager Provisions.

2023-2024 General Assembly

Committee:	House Health. If favorable, re-refer to Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 25, 2023
Introduced by:	Reps. Sasser, Bell, Blackwell, Humphrey	**Prepared by:**	Jason Moran-Bates Committee Staff
Analysis of:	First Edition		

OVERVIEW: House Bill 246 would prohibit pharmacy benefits managers from reimbursing pharmacies less than the national average cost of a drug or less than the pharmacy benefits manager would reimburse itself. They would also be prohibited from assessing certain fees and restricting the right of pharmacies to dispense specialty drugs. They would have to submit quarterly reports to the Department of Insurance. Health benefit plans would not be able to consider certain amounts paid on an insured's behalf if that would make the insured ineligible for a health savings account or impose restrictions on an insured's ability to use a mail order pharmacy.

CURRENT LAW: Pharmacy Benefits Managers (PBMs) are currently regulated under Article 56A of Chapter 58 (Insurance).

BILL ANALYSIS: House Bill 246 would amend the pharmacy benefits manager regulations in Article 56A of Chapter 58 in the following ways:

- It would add definitions for "national average drug acquisition cost," "specialty drug," and "specialty pharmacy accreditation."
- PBMs would be prohibited from reimbursing drugs for less than the national average drug acquisition cost or less than the PBM reimburses itself. They could not charge an insurer a price that differs from the price the PBM paid the pharmacist.
- PBMs could not base reimbursement on patient outcomes, impose retroactive point-of-sale fees, derive revenue from pharmacists, pharmacies, or insureds, or receive deductibles or copayments.
- Pharmacies with specialty pharmacy accreditation could not be prevented from dispensing specialty drugs.
- PBMs would be required to file quarterly reports with the Department of Insurance with aggregate wholesale cost and aggregate rebate information. This information would not be considered a public record under Chapter 132.
- PBMs would not be permitted to prohibit an insured's choice of pharmacy or pharmacists.
- When calculating an insured's out-of-pocket contribution, insurers would not be able to consider amounts paid on the insured's behalf for certain drugs if doing so would make the insured ineligible for a health savings account under federal tax law.

House Bill 246 would also prevent health benefit plans from imposing any conditions on insureds using the insureds' choice of pharmacy that would make using that pharmacy more expensive than a mail order pharmacy.

Finally, it would require pharmacies to be made aware of the reasons supporting an auditing claim.

EFFECTIVE DATE: This bill would become effective October 1, 2023, and apply to contracts issued, renewed, or amended on or after that date.