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SENATE BILL NO. 568

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend the Code of Virginia by adding a section numbered 32.1-325.04, relating to the Board of Medical Assistance Services; state pharmacy benefits manager.

Patron—Dunnavant

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-325.04 as follows:

§ 32.1-325.04. State pharmacy benefits manager.

A. As used in this section:

"Pharmacy benefit management service" means any service provided in connection with the administration or management of prescription drug benefits provided by a Medicaid managed care organization carrier under the state plan for medical assistance.

"Pharmacy benefit manager" means a person that provides a pharmacy benefit management service.

B. The Board of Medical Assistance Services (Board) shall select a third-party administrator to serve as the state pharmacy benefits manager used by Medicaid managed care organizations under the state plan for medical assistance. The state pharmacy benefits manager shall be responsible for all claims under the state plan.

C. In selecting the state pharmacy benefits manager, the Board shall:

1. Establish eligibility criteria;

2. Develop a master contract to be used by each Medicaid managed care organization when contracting with the state pharmacy benefits manager; and

3. Establish mandatory disclosures for a prospective state pharmacy benefits manager that include:

a. Any activity, policy, practice, contract, or arrangement of the applicant that may directly or indirectly present any conflict of interest with the state pharmacy benefit manager's relationship with or obligation to the Board or a Medicaid managed care organization; and

b. All common ownership, members of a board of directors, or managers, or other controlling interest of the state pharmacy benefits manager or its affiliates with any of the following:

(1) A Medicaid managed care organization and its affiliated companies;

(2) A drug wholesaler or distributor or its affiliated companies;

(3) A third-party payor and its affiliated companies;

(4) Any direct or indirect feed charges or any kind of assessments imposed by the state pharmacy benefits manager on pharmacies licensed in the Commonwealth that operate 11 or fewer locations; and

(5) Any financial terms and arrangements between the state pharmacy benefits manager and a prescription drug manufacturer or labeler, including formulary management, drug substitution programs, educational support claims processing, or data sales fees.

D. The Board shall select a state pharmacy benefits manager every four years. The current state pharmacy benefits manager shall be eligible to be reselected.

E. The Board shall require that each Medicaid managed care organization use the state pharmacy benefits manager pursuant to the terms of the master contract entered.

F. In consultation with the Director of Medical Assistance Services (Director), the state pharmacy benefits manager shall develop a drug formulary for use when administering prescribed drug benefits on behalf of a Medicaid managed care organization under the state plan. Such formulary shall list prescribed drugs and shall specify the per unit price for each drug. The formulary price is the total price ceiling, including any supplemental rebates or discounts received for the prescribed drug. The state pharmacy benefits manager shall disclose to the Department of Medical Assistance Services as soon as practicable and in writing any changes to the drug formulary. The Department of Medical Assistance Services may disapprove any such change. The state pharmacy benefits manager shall not make any payment for a prescribed drug included in the formulary that exceeds the per unit price for the drug listed in the formulary.

G. The Director shall establish an appeals process by which pharmacies may appeal any disputes relating to the maximum allowable cost set by the state pharmacy benefits manager. All pharmacies participating in the state plan for medical assistance shall use such appeals process to resolve any disputes relating to the maximum allowable cost set by the state pharmacy benefits manager.

H. The state pharmacy benefits manager shall provide a quarterly report to the Board containing the

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following information for the immediately preceding quarter:

1. The prices that the state pharmacy benefits manager negotiated for prescribed drugs under the state plan for medical assistance that includes any rebates the state pharmacy benefits manager received from the drug manufacturer;

2. The prices the state pharmacy benefits manager paid to pharmacies for prescribed drugs;

3. Any rebate amounts the state pharmacy benefits manager passed on to pharmacies;

4. The percentage of savings in drug prices passed on to enrollees in the state plan; and

5. Any other information required by the Director.

I. The Board shall promulgate regulations to implement the provisions of this section.