



February 12, 2021

The Honorable Senator Tom Wright
404 South Monroe Street
Senate Office Building
Room 230
Tallahassee, Florida 32399

RE: SB 390-An Act Relating to Prescription Drug Coverage

Dear Senator Wright,

On behalf of The Pharmaceutical Care Management Association (PCMA), I am writing to provide our comments regarding SB 390. The Pharmaceutical Care Management Association is the national association representing America's pharmacy benefit managers (PBMs). PBMs administer prescription drug plans and operate mail-order and specialty pharmacies for more than 266 million Americans with health coverage through Fortune 500 companies, health insurers, labor unions, Medicare, Medicaid, and other programs.

Below you will find our suggested changes and rationale to certain provisions contained in SB 390. We look forward to a continued dialogue on finding workable solutions to our concerns.

Definition of Maximum Allowable Cost: Section 3, Lines 149-161, Section 4, Lines 220-232, and Section 6, Lines 298-310.

Current Language

(a) "Maximum allowable cost" means the per-unit maximum amount that a pharmacy benefit manager reimburses a pharmacist for a prescription drug:

1. As specified at the time of claim processing and directly or indirectly reported on the initial remittance advice of an adjudicated claim for a generic drug, brand named drug, biological product, or specialty drug;
2. Which amount must be based on pricing published in the Medi-Span Master Drug Database or, if the pharmacy benefit manager uses only FDB MedKnowledge, on pricing published in FDB MedKnowledge; and
3. Excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.

PCMA Suggested Language:

(a) "Maximum Allowable Cost" means the per-unit amount that a pharmacy benefits manager will reimburse a pharmacy for the cost of a multisource drug.

1. Does not include the dispensing fee for the drug.

Rationale: As written, the definition of Maximum allowable cost includes brand, biological, and specialty drugs, however these types of drugs are not subject to maximum allowable cost reimbursement, only generic drugs are. Additionally, the current definition limits the sources for pricing used to develop MAC lists to FDB MedKnowledge or the Medi-Span Master Drug Database, which would limit a PBMs ability to effectively survey market data and more real-time pricing information.



Insurer-PBM Contracts: Section 3, Lines 191-210 and Section 4 Lines 266-281.

Current Language

(3) The office may require a health insurer to submit to the office any contract or amendments to a contract for the administration or management of prescription drug benefits by a pharmacy benefit manager on behalf of the insurer.

(4) After review of a contract submitted under subsection (3), the office may order the insurer to cancel the contract in accordance with the terms of the contract and applicable law if the office determines that any of the following conditions exists:

(a) The fees to be paid by the insurer are so unreasonably high as compared with similar contracts entered into by insurers, or as compared with similar contracts entered into by other insurers in similar circumstances, that the contract is detrimental to the policyholders of the insurer.

(b) The contract does not comply with this section or any other provision of the Florida Insurance Code.

(c) The pharmacy benefit manager is not registered with the office as required under s. 624.490.

(5) The commission may adopt rules to administer this section.

PCMA Suggestion and Rationale:

PCMA respectfully asks that lines 191-210 from Section 3 and lines 266-281 of Section 4 be removed from SB 390. These provisions inappropriately involve the state in privately negotiated contracts between two consenting parties. Additionally, we have serious concerns that if the state was given the ability to cancel a contract submitted by an insurer or HMO, patients will face serious disruptions in being able to obtain the pharmacy benefits they have been guaranteed through their health benefit plan. Moreover, these sections provide no confidentiality protections for submitted contracts which contain sensitive, proprietary information.

Health Maintenance Organization Contracts-PBM Contrats: Section 6, Lines 342-364

Current Language:

(3) The office may require a health maintenance organization to submit to the office any contract or amendments to a contract for the administration or management of prescription drug benefits by a pharmacy benefit manager on behalf of the health maintenance organization.

(4) After review of a contract submitted under subsection (3), the office may order the health maintenance organization to cancel the contract in accordance with the terms of the contract and applicable law if the office determines that any of the following conditions exists:

(a) The fees to be paid by the health maintenance organization are so unreasonably high as compared with similar contracts entered into by health maintenance organizations, or as compared with similar contracts entered into by other health

maintenance organizations in similar circumstances, that the contract is detrimental to the subscribers of the health maintenance organization.

(b) The contract does not comply with this section or any other provision of the Florida Insurance



Code.

(c) The pharmacy benefit manager is not registered with the office as required under s. 624.490.

(5) The commission may adopt rules to administer this section.

PCMA Suggestion and Rationale:

PCMA requests that lines 342-364 be removed from SB 390 for the same reasons stated above for Section 3 lines 191-210 and Section 4 lines 266-281.

We appreciate your consideration of our comments and are ready to work with you on finding workable solutions to SB 390. If you have any questions or would like any additional information please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Connor Rose", is positioned below the "Sincerely," text.

Connor Rose
Director, State Affairs
Pharmaceutical Care Management Association