Department of Commerce

Adopted Permanent Rules Relating to Pharmacy Benefit Management

The rules proposed and published at State Register, Volume 46, Number 7, pages 137-148, August 16, 2021 (46 SR 137), are adopted with the following modifications:

2737.0100 DEFINITIONS.

Subp. 3. Doing business in Minnesota. "Doing business in Minnesota" means a pharmacy benefit manager is in contract to perform pharmacy benefits services with a plan sponsor that either (1) is a Minnesota entity, or (2) makes a contract or engages in a terms of service agreement with a Minnesota resident that is performed in whole or in part by either party in Minnesota.

2737.0300 GOVERNMENT PROGRAMS.

Subpart 1. Governmental agencies providing pharmacy management services. Where an agency of the state of Minnesota directly provides pharmacy management services, the agency is extended the exemption granted to the Department of Human Services under Minnesota Statutes, section 62W.02, subdivision 16.

2737.0600 REVIEW BY COMMISSIONER.

Subp. 4. Appeals process. The commissioner's decision to deny a license, deny a renewal, or issue a limited or restricted license may be appealed subject to the following procedure:

B. the commissioner must conduct a hearing within 30 days after the date the hearing request is made, the commissioner must provide notice of a hearing to be conducted under Minnesota Statutes, chapter 14, and must give not less than ten days' written notice of the hearing date, time, and location; and

C. within 15 days after the hearing date, the commissioner must affirm, reverse, or modify the denial or limited or restricted license issuance and specify in writing the reasons for the decision or action. The effective date of the commissioner's action or decision...
may be suspended or postponed pending the completion of the hearing before the commissioner;  

D. nothing in this subpart requires the commissioner to observe formal rules of pleading or evidence at any hearing; and  

E. C. the commissioner's order or decision is a final decision subject to appeal under Minnesota Statutes, chapter 14.

2737.0700 ENFORCEMENT BY COMMISSIONER.  

Subp. 2. Basis for suspension, revocation, or probation. The commissioner may consider the following when suspending, revoking, or placing a pharmacy benefit manager license on probation:

A. failure to comply with relevant state and federal law, as determined by the relevant regulatory body:

2737.0800 ADEQUATE NETWORK.  

Subpart 1. Pharmacy type. A network is adequate if it contains at least one of each of the following types of pharmacies:

E. long-term care; or and

2737.0900 ACCESSIBLE NETWORK; RETAIL PHARMACY.  

The relevant portion of Minnesota Statutes, section 62K.10, for purposes of determining accessibility for retail pharmacies is subdivision 2.

2737.1200 PHARMACY OWNERSHIP INTEREST.  

Subp. 3. Use of quantity and refill limits. A pharmacy benefit manager may use quantity and refill limits only as provided in this subpart.
A. **Retail.** A pharmacy benefit manager or health carrier may only impose quantity limits or refill frequency limits at an owned nonowned retail pharmacy where when the pharmacy benefit manager or health carrier provides the enrollee access to a nonowned retail pharmacy with has imposed the same limits at the pharmacy benefit manager's or health carrier's owned retail pharmacies.

B. **Mail order.** A pharmacy benefit manager or health carrier may only impose quantity limits or refill frequency limits at an owned nonowned mail order pharmacy where when the pharmacy benefit manager or health carrier provides the enrollee access to a nonowned mail order pharmacy with has imposed the same limits at the pharmacy benefit manager's or health carrier's owned mail order pharmacies.

**Subp. 4. Single Exclusively owned mail order pharmacy networks.** If a pharmacy benefit manager administers a network with a single only mail order pharmacy pharmacies that are owned pharmacy pharmacies, the pharmacy benefit manager is prohibited from (1) offering financial incentives to use the mail order pharmacy pharmacies, or (2) imposing limits on an enrollee's access to medication.

**2737.1500 MAXIMUM ALLOWABLE COST PRICING.**

Subpart 1. **Maximum allowable cost price list.** A pharmacy benefit manager subject to Minnesota Statutes, section 62W.08, must make available to all pharmacies the pharmacy benefit manager has a contract with a version of the pharmacy benefit manager's maximum allowable cost price list that comports with the following requirements:

A. **Form.** Pharmacy benefit managers must allow pharmacies the pharmacy benefit manager contracts with to review the maximum allowable cost price list in electronic, paper print, or telephonic format.
2737.1700 ALLOWABLE CLAIM AMOUNT.

The allowable claim amount is equivalent to the net amount the pharmacy receives from the pharmacy benefit manager for dispensing the prescription. The health carrier or pharmacy benefit manager has agreed to pay the pharmacy for the prescription medication.

2737.1800 RETROACTIVE ADJUSTMENTS.

Subp. 3. Fees not subject to adjustment. Payment for quality performance metrics included in a prescription drug plan that are based on a pharmacy's quality performance and calculated on prescription count are not retroactive claim adjustments. Retroactive adjustments must not include payments to the pharmacy based on meeting certain performance metrics and must not be based on related prescription count.