

1 HOUSE BILL 138

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Elizabeth "Liz" Thomson

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9  
10 AN ACT

11 RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH  
12 CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH  
13 MAINTENANCE ORGANIZATION LAW HHC→**AND** ,←HHC THE NONPROFIT  
14 HEALTH CARE PLAN LAW HHC→**AND THE PHARMACY BENEFITS MANAGER**  
15 **REGULATION ACT**←HHC TO PROVIDE COVERED PERSONS WITH PARITY OF  
16 ACCESS AND PAYMENT BETWEEN PARTICIPATING MAIL-ORDER PHARMACIES  
17 AND PARTICIPATING COMMUNITY PHARMACIES.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of the Health Care Purchasing  
21 Act is enacted to read:

22 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
23 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

24 A. Group health coverage, including any form of  
25 self-insurance, offered, issued or renewed under the Health

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1 Care Purchasing Act, that offers a prescription drug benefit  
2 shall permit:

3 (1) any pharmacy or pharmacist licensed in the  
4 state to participate as a participating community pharmacy or  
5 participating mail-order pharmacy if that pharmacy agrees to  
6 accept the terms and conditions that the group health coverage  
7 establishes; and

8 (2) an enrollee to fill a covered prescription  
9 at the enrollee's option at any participating community  
10 pharmacy or participating mail-order pharmacy; provided that  
11 the participating community pharmacy accepts reimbursement at a  
12 rate comparable to that of a participating mail-order pharmacy.

13 B. A group health plan shall not impose a  
14 copayment, coinsurance or other condition on an enrollee who  
15 elects to fill a covered prescription from any participating  
16 community pharmacy that is not also imposed on an enrollee who  
17 elects to fill a covered prescription at a participating mail-  
18 order pharmacy.

19 C. A group health plan shall not require an  
20 enrollee, as a condition of payment or reimbursement, to  
21 purchase pharmacy services, including prescription drugs,  
22 exclusively through a mail-order pharmacy.

23 D. Any provision in a group health plan, including  
24 any form of self-insurance, offered, issued or renewed under  
25 the Health Care Purchasing Act, that is contrary to any

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1 provision of this section is void to the extent of that  
2 conflict.

3 E. As used in this section:

4 (1) "covered prescription" means a drug for  
5 which a group health plan has agreed to make reimbursement  
6 under the terms of the group health plan;

7 (2) "participating community pharmacy" means  
8 an entity physically located in the state that operates in the  
9 regular course of business as a retail pharmacy, irrespective  
10 of the cost or type of prescription drugs it dispenses and  
11 that:

12 (a) has agreed to accept a group health  
13 plan's contracted payment rate, and, pursuant to this  
14 agreement, an enrollee may fill a prescription and pay a  
15 copayment or coinsurance that is more advantageous to the  
16 enrollee than the copayment or coinsurance for a prescription  
17 sought from a retail pharmacy that has not agreed to the group  
18 health plan's contracted payment rate; and

19 (b) in the two years preceding the date  
20 the pharmacy has otherwise become eligible to become a  
21 participating community pharmacy, has not been convicted of  
22 fraud, waste or abuse, or entered into a settlement pursuant to  
23 allegations of fraud, waste or abuse, in matters related to or  
24 arising out of a health coverage program established pursuant  
25 to Title 18, 19 or 21 of the federal Social Security Act; and

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1 (3) "participating mail-order pharmacy" means,  
2 irrespective of the cost or type of prescription drugs it  
3 dispenses, a retail pharmacy:

4 (a) that is registered, headquartered or  
5 has its base of operations physically located in the state;

6 (b) for which the majority of the  
7 pharmacy's business consists of dispensing a prescription drug  
8 under a prescription drug order and having the drug delivered  
9 to a patient by the United States mail, a common carrier or a  
10 delivery service. Mail-order pharmacies include pharmacies  
11 that do business via the internet or other electronic media;

12 (c) that has agreed to accept a group  
13 health plan's contracted payment rate, and, pursuant to this  
14 agreement, an enrollee may fill a prescription and pay a  
15 copayment or coinsurance that is more advantageous to the  
16 enrollee than the copayment or coinsurance for a prescription  
17 sought from a retail pharmacy that has not agreed to the group  
18 health plan's contracted payment rate; and

19 (d) that in the two years preceding the  
20 date the pharmacy has otherwise become eligible to become a  
21 participating mail-order pharmacy, has not been convicted of  
22 fraud, waste or abuse, or entered into a settlement pursuant to  
23 allegations of fraud, waste or abuse, in matters related to or  
24 arising out of a health coverage program established pursuant  
25 to Title 18, 19 or 21 of the federal Social Security Act."

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1           SECTION 2. A new section of Chapter 59A, Article 22 NMSA  
2 1978 is enacted to read:

3           "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
4 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

5           A. An individual or group health insurance policy,  
6 health care plan or certificate of insurance that is delivered,  
7 issued for delivery or renewed in the state and that provides a  
8 prescription drug benefit shall permit:

9                     (1) any pharmacy or pharmacist licensed in the  
10 state to participate as a participating community pharmacy or  
11 participating mail-order pharmacy if that pharmacy agrees to  
12 accept the terms and conditions that the health insurance  
13 policy, health care plan or certificate of insurance  
14 establishes; and

15                     (2) an insured to fill a covered prescription  
16 at the insured's option at any participating community pharmacy  
17 or participating mail-order pharmacy; provided that the  
18 participating community pharmacy accepts reimbursement at a  
19 rate comparable to that of a participating mail-order pharmacy.

20           B. An insurer shall not impose a copayment,  
21 coinsurance or other condition on an insured who elects to fill  
22 a covered prescription from any participating community  
23 pharmacy that is not also imposed on an insured who elects to  
24 fill a covered prescription at any participating mail-order  
25 pharmacy.

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1 C. An insurer shall not require an insured, as a  
2 condition of payment or reimbursement, to purchase pharmacy  
3 services, including prescription drugs, exclusively through a  
4 mail-order pharmacy.

5 D. A health insurance policy, health care plan or  
6 certificate of insurance that is delivered, issued for delivery  
7 or renewed in the state and that contains a provision contrary  
8 to any provision of this section is void to the extent of that  
9 conflict.

10 E. The provisions of this section apply to health  
11 insurance policies, health care plans and certificates of  
12 insurance delivered or issued for delivery after January 1,  
13 2020.

14 F. As used in this section:

15 (1) "covered prescription" means a drug for  
16 which a health insurance policy, health care plan or  
17 certificate of insurance has agreed to make reimbursement under  
18 the terms of the health insurance policy, health care plan or  
19 certificate of insurance;

20 (2) "participating community pharmacy" means  
21 an entity physically located in the state that operates in the  
22 regular course of business as a retail pharmacy, irrespective  
23 of the cost or type of prescription drugs it dispenses and  
24 that:

25 (a) has agreed to accept an insurer's

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1 contracted payment rate, and, pursuant to this agreement, an  
2 insured may fill a prescription and pay a copayment or  
3 coinsurance that is more advantageous to the insured than the  
4 copayment or coinsurance for a prescription sought from a  
5 retail pharmacy that has not agreed to the carrier's contracted  
6 payment rate; and

7 (b) in the two years preceding the date  
8 the pharmacy has otherwise become eligible to become a  
9 participating community pharmacy, has not been convicted of  
10 fraud, waste or abuse, or entered into a settlement pursuant to  
11 allegations of fraud, waste or abuse, in matters related to or  
12 arising out of a health coverage program established pursuant  
13 to Title 18, 19 or 21 of the federal Social Security Act; and

14 (3) "participating mail-order pharmacy" means,  
15 irrespective of the cost or type of prescription drugs it  
16 dispenses, a retail pharmacy:

17 (a) that is registered, headquartered or  
18 has its base of operations physically located in the state;

19 (b) for which the majority of the  
20 pharmacy's business consists of dispensing a prescription drug  
21 under a prescription drug order and having the drug delivered  
22 to a patient by the United States mail, a common carrier or a  
23 delivery service. Mail-order pharmacies include pharmacies  
24 that do business via the internet or other electronic media;

25 (c) that has agreed to accept an

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1 insurer's contracted payment rate, and, pursuant to this  
2 agreement, an insured may fill a prescription and pay a  
3 copayment or coinsurance that is more advantageous to the  
4 insured than the copayment or coinsurance for a prescription  
5 sought from a retail pharmacy that has not agreed to the  
6 insurer's contracted payment rate; and

7 (d) that in the two years preceding the  
8 date the pharmacy has otherwise become eligible to become a  
9 participating mail-order pharmacy, has not been convicted of  
10 fraud, waste or abuse, or entered into a settlement pursuant to  
11 allegations of fraud, waste or abuse, in matters related to or  
12 arising out of a health coverage program established pursuant  
13 to Title 18, 19 or 21 of the federal Social Security Act."

14 SECTION 3. A new section of Chapter 59A, Article 23 NMSA  
15 1978 is enacted to read:

16 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
17 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

18 A. An individual or group health insurance policy,  
19 health care plan or certificate of insurance that is delivered,  
20 issued for delivery or renewed in the state and that provides a  
21 prescription drug benefit shall permit:

22 (1) any pharmacy or pharmacist licensed in the  
23 state to participate as a participating community pharmacy or  
24 participating mail-order pharmacy if that pharmacy agrees to  
25 accept the terms and conditions that the health insurance

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1 policy, health care plan or certificate of insurance  
2 establishes; and

3 (2) an insured to fill a covered prescription  
4 at the insured's option at any participating community pharmacy  
5 or participating mail-order pharmacy; provided that the  
6 participating community pharmacy accepts reimbursement at a  
7 rate comparable to that of a participating mail-order pharmacy.

8 B. An insurer shall not impose a copayment,  
9 coinsurance or other condition on an insured who elects to fill  
10 a covered prescription from any participating community  
11 pharmacy that is not also imposed on an insured who elects to  
12 fill a covered prescription at any participating mail-order  
13 pharmacy.

14 C. An insurer shall not require an insured, as a  
15 condition of payment or reimbursement, to purchase pharmacy  
16 services, including prescription drugs, exclusively through a  
17 mail-order pharmacy.

18 D. A health insurance policy, health care plan or  
19 certificate of insurance that is delivered, issued for delivery  
20 or renewed in the state and that contains a provision contrary  
21 to any provision of this section is void to the extent of that  
22 conflict.

23 E. The provisions of this section apply to health  
24 insurance policies, health care plans and certificates of  
25 insurance delivered or issued for delivery after January 1,

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1 2020.

2 F. As used in this section:

3 (1) "covered prescription" means a drug for  
4 which a health insurance policy, health care plan or  
5 certificate of insurance has agreed to make reimbursement under  
6 the terms of the health insurance policy, health care plan or  
7 certificate of insurance;

8 (2) "participating community pharmacy" means  
9 an entity physically located in the state that operates in the  
10 regular course of business as a retail pharmacy, irrespective  
11 of the cost or type of prescription drugs it dispenses and  
12 that:

13 (a) has agreed to accept an insurer's  
14 contracted payment rate, and, pursuant to this agreement, an  
15 insured may fill a prescription and pay a copayment or  
16 coinsurance that is more advantageous to the insured than the  
17 copayment or coinsurance for a prescription sought from a  
18 retail pharmacy that has not agreed to the carrier's contracted  
19 payment rate; and

20 (b) in the two years preceding the date  
21 the pharmacy has otherwise become eligible to become a  
22 participating community pharmacy, has not been convicted of  
23 fraud, waste or abuse, or entered into a settlement pursuant to  
24 allegations of fraud, waste or abuse, in matters related to or  
25 arising out of a health coverage program established pursuant

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1 to Title 18, 19 or 21 of the federal Social Security Act; and

2 (3) "participating mail-order pharmacy" means,  
3 irrespective of the cost or type of prescription drugs it  
4 dispenses, a retail pharmacy:

5 (a) that is registered, headquartered or  
6 has its base of operations physically located in the state;

7 (b) for which the majority of the  
8 pharmacy's business consists of dispensing a prescription drug  
9 under a prescription drug order and having the drug delivered  
10 to a patient by the United States mail, a common carrier or a  
11 delivery service. Mail-order pharmacies include pharmacies  
12 that do business via the internet or other electronic media;

13 (c) that has agreed to accept an  
14 insurer's contracted payment rate, and, pursuant to this  
15 agreement, an insured may fill a prescription and pay a  
16 copayment or coinsurance that is more advantageous to the  
17 insured than the copayment or coinsurance for a prescription  
18 sought from a retail pharmacy that has not agreed to the  
19 insurer's contracted payment rate; and

20 (d) that in the two years preceding the  
21 date the pharmacy has otherwise become eligible to become a  
22 participating mail-order pharmacy, has not been convicted of  
23 fraud, waste or abuse, or entered into a settlement pursuant to  
24 allegations of fraud, waste or abuse, in matters related to or  
25 arising out of a health coverage program established pursuant

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1 to Title 18, 19 or 21 of the federal Social Security Act."

2 SECTION 4. A new section of the Health Maintenance  
3 Organization Law is enacted to read:

4 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
5 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

6 A. A health maintenance organization contract that  
7 is delivered, issued for delivery or renewed in the state and  
8 that provides a prescription drug benefit shall permit:

9 (1) any pharmacy or pharmacist licensed in the  
10 state to participate as a participating community pharmacy or  
11 participating mail-order pharmacy if that pharmacy agrees to  
12 accept the terms and conditions that the contract establishes;  
13 and

14 (2) an enrollee to fill a covered prescription  
15 at the enrollee's option at any participating community  
16 pharmacy or participating mail-order pharmacy; provided that  
17 the participating community pharmacy accepts reimbursement at a  
18 rate comparable to that of a participating mail-order pharmacy.

19 B. A carrier shall not impose a copayment,  
20 coinsurance or other condition on an enrollee who elects to  
21 fill a covered prescription from any participating community  
22 pharmacy that is not also imposed on an enrollee who elects to  
23 fill a covered prescription at any participating mail-order  
24 pharmacy.

25 C. A carrier shall not require an enrollee, as a

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1 condition of payment or reimbursement, to purchase pharmacy  
2 services, including prescription drugs, exclusively through a  
3 mail-order pharmacy.

4 D. A health maintenance organization contract that  
5 is delivered, issued for delivery or renewed in the state and  
6 that contains a provision contrary to any provision of this  
7 section is void to the extent of that conflict.

8 E. The provisions of this section apply to health  
9 maintenance organization contracts delivered or issued for  
10 delivery after January 1, 2020.

11 F. As used in this section:

12 (1) "covered prescription" means a drug for  
13 which a health maintenance organization contract has agreed to  
14 make reimbursement under the terms of the health maintenance  
15 organization contract;

16 (2) "participating community pharmacy" means  
17 an entity physically located in the state that operates in the  
18 regular course of business as a retail pharmacy, irrespective  
19 of the cost or type of prescription drugs it dispenses and  
20 that:

21 (a) has agreed to accept a carrier's  
22 contracted payment rate, and, pursuant to this agreement, an  
23 enrollee may fill a prescription and pay a copayment or  
24 coinsurance that is more advantageous to the enrollee than the  
25 copayment or coinsurance for a prescription sought from a

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1 retail pharmacy that has not agreed to the carrier's contracted  
2 payment rate; and

3 (b) in the two years preceding the date  
4 the pharmacy has otherwise become eligible to become a  
5 participating community pharmacy, has not been convicted of  
6 fraud, waste or abuse, or entered into a settlement pursuant to  
7 allegations of fraud, waste or abuse, in matters related to or  
8 arising out of a health coverage program established pursuant  
9 to Title 18, 19 or 21 of the federal Social Security Act; and

10 (3) "participating mail-order pharmacy" means,  
11 irrespective of the cost or type of prescription drugs it  
12 dispenses, a retail pharmacy:

13 (a) that is registered, headquartered or  
14 has its base of operations physically located in the state;

15 (b) for which the majority of the  
16 pharmacy's business consists of dispensing a prescription drug  
17 under a prescription drug order and having the drug delivered  
18 to a patient by the United States mail, a common carrier or a  
19 delivery service. Mail-order pharmacies include pharmacies  
20 that do business via the internet or other electronic media;

21 (c) that has agreed to accept a  
22 carrier's contracted payment rate, and, pursuant to this  
23 agreement, an enrollee may fill a prescription and pay a  
24 copayment or coinsurance that is more advantageous to the  
25 enrollee than the copayment or coinsurance for a prescription

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1 sought from a retail pharmacy that has not agreed to the  
2 carrier's contracted payment rate; and

3 (d) that in the two years preceding the  
4 date the pharmacy has otherwise become eligible to become a  
5 participating mail-order pharmacy, has not been convicted of  
6 fraud, waste or abuse, or entered into a settlement pursuant to  
7 allegations of fraud, waste or abuse, in matters related to or  
8 arising out of a health coverage program established pursuant  
9 to Title 18, 19 or 21 of the federal Social Security Act."

10 SECTION 5. A new section of the Nonprofit Health Care  
11 Plan Law is enacted to read:

12 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
13 PHARMACIES--ACCESS PARITY--COPAYMENT AND COINSURANCE PARITY.--

14 A. A health care plan that is delivered, issued for  
15 delivery or renewed in the state and that provides a  
16 prescription drug benefit shall permit:

17 (1) any pharmacy or pharmacist licensed in the  
18 state to participate as a participating community pharmacy or  
19 participating mail-order pharmacy if that pharmacy agrees to  
20 accept the terms and conditions that the contract establishes;  
21 and

22 (2) a subscriber to fill a covered  
23 prescription at the subscriber's option at any participating  
24 community pharmacy or participating mail-order pharmacy;  
25 provided that the participating community pharmacy accepts

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1 reimbursement at a rate comparable to that of a participating  
2 mail-order pharmacy.

3 B. A health care plan shall not impose a copayment,  
4 coinsurance or other condition on a subscriber who elects to  
5 fill a covered prescription from any participating community  
6 pharmacy that is not also imposed on a subscriber who elects to  
7 fill a covered prescription at any participating mail-order  
8 pharmacy.

9 C. A health care plan shall not require a  
10 subscriber, as a condition of payment or reimbursement, to  
11 purchase pharmacy services, including prescription drugs,  
12 exclusively through a mail-order pharmacy.

13 D. A health care plan that is delivered, issued for  
14 delivery or renewed in the state and that contains a provision  
15 contrary to any provision of this section is void to the extent  
16 of that conflict.

17 E. The provisions of this section apply to health  
18 care plans delivered or issued for delivery after January 1,  
19 2020.

20 F. As used in this section:

21 (1) "covered prescription" means a drug for  
22 which a health care plan has agreed to make reimbursement under  
23 the terms of the health care plan;

24 (2) "participating community pharmacy" means  
25 an entity physically located in the state that operates in the

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1 regular course of business as a retail pharmacy, irrespective  
2 of the cost or type of prescription drugs it dispenses and  
3 that:

4 (a) has agreed to accept a health care  
5 plan's contracted payment rate, and, pursuant to this  
6 agreement, a subscriber may fill a prescription and pay a  
7 copayment or coinsurance that is more advantageous to the  
8 subscriber than the copayment or coinsurance for a prescription  
9 sought from a retail pharmacy that has not agreed to the health  
10 care plan's contracted payment rate; and

11 (b) in the two years preceding the date  
12 the pharmacy has otherwise become eligible to become a  
13 participating community pharmacy, has not been convicted of  
14 fraud, waste or abuse, or entered into a settlement pursuant to  
15 allegations of fraud, waste or abuse, in matters related to or  
16 arising out of a health coverage program established pursuant  
17 to Title 18, 19 or 21 of the federal Social Security Act; and

18 (3) "participating mail-order pharmacy" means,  
19 irrespective of the cost or type of prescription drugs it  
20 dispenses, a retail pharmacy:

21 (a) that is registered, headquartered or  
22 has its base of operations physically located in the state;

23 (b) for which the majority of the  
24 pharmacy's business consists of dispensing a prescription drug  
25 under a prescription drug order and having the drug delivered

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1 to a patient by the United States mail, a common health care  
2 plan or a delivery service. Mail-order pharmacies include  
3 pharmacies that do business via the internet or other  
4 electronic media;

5 (c) that has agreed to accept a health  
6 care plan's contracted payment rate, and, pursuant to this  
7 agreement, a subscriber may fill a prescription and pay a  
8 copayment or coinsurance that is more advantageous to the  
9 subscriber than the copayment or coinsurance for a prescription  
10 sought from a retail pharmacy that has not agreed to the health  
11 care plan's contracted payment rate; and

12 (d) that in the two years preceding the  
13 date the pharmacy has otherwise become eligible to become a  
14 participating mail-order pharmacy, has not been convicted of  
15 fraud, waste or abuse, or entered into a settlement pursuant to  
16 allegations of fraud, waste or abuse, in matters related to or  
17 arising out of a health coverage program established pursuant  
18 to Title 18, 19 or 21 of the federal Social Security Act."

19 HHHC→SECTION 6. A new section of the Pharmacy Benefits  
20 Manager Regulation Act is enacted to read:

21 "[NEW MATERIAL] PHARMACY BENEFITS--PARTICIPATING  
22 PHARMACIES-- ACCESS PARITY.--

23 A. A pharmacy benefits manager or intermediary that  
24 contracts with an employer, a managed care company, a nonprofit  
25 hospital or a medical service organization, insurance company

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1 or third-party payer for the provision of a prescription drug  
2 benefit shall permit:

3 (1) any pharmacy or pharmacist licensed in the  
4 state to participate as a participating community pharmacy or  
5 participating mail-order pharmacy if that pharmacy agrees to  
6 accept the reasonable standard terms and conditions that the  
7 contract establishes; and

8 (2) an enrollee to fill a covered prescription  
9 at the enrollee's option at any participating community  
10 pharmacy or participating mail-order pharmacy; provided that  
11 the participating community pharmacy accepts reimbursement at a  
12 rate comparable to that of other participating contracted  
13 pharmacies.

14 B. A pharmacy benefits manager shall not impose a  
15 copayment, coinsurance or other condition on an enrollee who  
16 elects to fill a covered prescription from any participating  
17 community pharmacy that is also imposed on an enrollee who  
18 elects to fill a covered prescription at any participating  
19 mail-order pharmacy.

20 C. A pharmacy benefits manager shall not require an  
21 enrollee, as a condition of payment or reimbursement, to  
22 purchase pharmacy services, including prescription drugs,  
23 through a mail- order pharmacy.

24 D. A pharmacy benefits manager contract that is  
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1 entered into with any employer, managed care company, nonprofit  
2 hospital or medical service organization, insurance company or  
3 third-party payer and that contains a provision contrary to any  
4 provision of this section is void to the extent of that  
5 conflict.

6 E. As used in this section:

7 (1) "covered prescription" means a drug on the  
8 formulary of the contracted pharmacy benefits manager, for  
9 which the pharmacy benefits manager has agreed to make  
10 reimbursement under the terms of its contract;

11 (2) "participating community pharmacy" means  
12 an entity licensed by the state that operates in the regular  
13 course of business as a retail pharmacy, irrespective of the  
14 cost or type of prescription drugs it dispenses, and that in  
15 the two years preceding the date the pharmacy has otherwise  
16 become eligible to become a participating community pharmacy,  
17 has not been convicted of fraud, waste or abuse, or entered  
18 into a settlement pursuant to allegations of fraud, waste or  
19 abuse, in matters related to or arising out of a health  
20 coverage program established pursuant to Title 18, 19 or 21 of  
21 the federal Social Security Act; and

22 (3) "participating mail-order pharmacy" means,  
23 irrespective of the cost or type of prescription drugs it  
24 dispenses, a pharmacy:  
25

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(a) that is licensed by the state;

(b) for which the majority of the pharmacy's business consists of dispensing a prescription drug under a prescription drug order and having the drug delivered to a patient by the United States mail or a common carrier. Mail-order pharmacies include pharmacies that do business via the internet or other electronic media; and

(c) that in the two years preceding the date the pharmacy has otherwise become eligible to become a participating mail-order pharmacy, has not been convicted of fraud, waste or abuse in a matter related to or arising out of a health coverage program established pursuant to Title 18, 19 or 21 of the federal Social Security Act."←HHHC