

**FIFTY-FOURTH LEGISLATURE
FIRST SESSION, 2019**

February 11, 2019

Mr. Speaker:

Your **HEALTH & HUMAN SERVICES COMMITTEE**, to whom has been referred

HOUSE BILL 138

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 13, strike "AND" and insert in lieu thereof a comma.

2. On page 1, line 14, after "LAW", insert "AND THE PHARMACY BENEFITS MANAGER REGULATION ACT".

3. On page 18, between lines 17 and 18, insert the following new section:

"**SECTION 6.** A new section of the Pharmacy Benefits Manager Regulation Act is enacted to read:

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

A. A pharmacy benefits manager or intermediary that contracts with an employer, a managed care company, a nonprofit hospital or a medical service organization, insurance company or third-party payer for the provision of a prescription drug benefit shall permit:

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

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

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B. A pharmacy benefits manager shall not impose a copayment, coinsurance or other condition on an enrollee who elects to fill a covered prescription from any participating community

pharmacy that is also imposed on an enrollee who elects to fill a covered prescription at any participating mail-order pharmacy.

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

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

E. As used in this section:

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

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

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

(a) that is licensed by the state;

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(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."",

and thence referred to the **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE**.

Respectfully submitted,

Deborah Armstrong, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

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The roll call vote was 5 For 2 Against
Yes: 5
No: Armstrong, G., Cook
Excused: Schmedes
Absent: None

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