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# A BILL FOR AN ACT

RELATING TO PHARMACY BENEFIT MANAGERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 328, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VI to be appropriately  
3 designated and to read as follows:

4           "§328-           Pharmacy benefit manager; maximum allowable

5 cost. (a) A pharmacy benefit manager that reimburses a  
6 contracting pharmacy for a drug on a maximum allowable cost  
7 basis shall comply with the requirements of this section.

8           (b) The pharmacy benefit manager shall include the  
9 following in the contract information with a contracting  
10 pharmacy:

11           (1) Information identifying any national drug pricing  
12           compendia; or

13           (2) Other data sources for the maximum allowable cost  
14           list.

15           (c) The pharmacy benefit manager shall make available to a  
16 contracting pharmacy, upon request, the most up-to-date maximum  
17 allowable cost price or prices used by the pharmacy benefit



1 manager for patients served by the pharmacy in a readily  
2 accessible, secure, and usable web-based or other comparable  
3 format.

4 (d) A drug shall not be included on a maximum allowable  
5 cost list or reimbursed on a maximum allowable cost basis unless  
6 all of the following apply:

7 (1) The drug is listed as "A" or "B" rated in the most  
8 recent version of the federal Food and Drug  
9 Administration's Approved Drug Products with  
10 Therapeutic Equivalent Evaluations, also known as the  
11 "Orange Book," or has a rating of "NR", "NA", or  
12 similar rating by a nationally recognized reference;

13 (2) The drug is generally available for purchase in this  
14 State from a national or regional wholesaler; and

15 (3) The drug is not obsolete.

16 (e) The pharmacy benefit manager shall review and make  
17 necessary adjustments to the maximum allowable cost of each drug  
18 on a maximum allowable cost list at least once every seven days  
19 using the most recent data sources available, and shall apply  
20 the updated maximum allowable cost list beginning that same day  
21 to reimburse the contracted pharmacy until the pharmacy benefit



1 manager next updates the maximum allowable cost list in  
2 accordance with this section.

3 (f) The pharmacy benefit manager shall have a clearly  
4 defined process for a contracting pharmacy to appeal the maximum  
5 allowable cost for a drug on a maximum allowable cost list that  
6 complies with all of the following:

7 (1) A contracting pharmacy may base its appeal on one or  
8 more of the following:

9 (A) The maximum allowable cost for a drug is below  
10 the cost at which the drug is available for  
11 purchase by similarly situated pharmacies in this  
12 State from a national or regional wholesaler; or

13 (B) The drug does not meet the requirements of  
14 subsection (d); and

15 (2) A contracting pharmacy shall pay the claim for which  
16 an appeal is based no less than fourteen business days  
17 following receipt of the claim from the pharmacy  
18 benefit manager. The pharmacy benefit manager shall  
19 make a final determination regarding a pharmacy's  
20 appeal within fourteen business days of the pharmacy  
21 benefit manager's receipt of the appeal;



- 1       (3) If an appeal is denied by the pharmacy benefit  
2       manager, the pharmacy benefit manager shall provide to  
3       the contracting pharmacy the reason for the denial and  
4       the national drug code of an equivalent drug that may  
5       be purchased by a similarly situated pharmacy at the  
6       price that is equal to or less than the maximum  
7       allowable cost of the appealed drug; and
- 8       (4) If an appeal is upheld by the pharmacy benefit  
9       manager, the pharmacy benefit manager shall adjust the  
10       maximum allowable cost of the appealed drug for the  
11       appealing contracting pharmacy within one calendar day  
12       of the date of determination and allow the contracting  
13       pharmacy to reverse and rebill the appealed claim.
- 14       (g) A contracting pharmacy shall not disclose to any third  
15       party the maximum allowable cost list and any related  
16       information it receives, either directly from a pharmacy benefit  
17       manager or through a pharmacy services administrative  
18       organization or similar entity with which the pharmacy has a  
19       contract to provide administrative services for that pharmacy."



1 SECTION 2. Section 328-91, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Maximum allowable cost" means the maximum amount that a  
5 pharmacy benefit manager shall reimburse a pharmacy for the cost  
6 of a drug.

7 "Maximum allowable cost list" means a list of drugs for  
8 which a maximum allowable cost has been established by a  
9 pharmacy benefit manager.

10 "Obsolete" means a drug that may be listed in a national  
11 drug pricing compendia but cannot be dispensed based on the  
12 expiration date of the last lot manufactured."

13 SECTION 3. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2112.



**Report Title:**

Pharmacy Benefit Manager; Maximum Allowable Cost

**Description:**

Authorizes a pharmacy benefit manager to establish a maximum reimbursement amount for a drug under certain circumstances.  
(HB252 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

