

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 905*

Short Title: Health Ins.–Pharmacy of Choice.

(Public)

Sponsors: Representatives Cole; Bowman, Jeffus, and McLawhorn.

Referred to: Health and Human Services.

April 13, 1993

A BILL TO BE ENTITLED

AN ACT TO INSURE THAT CONSUMERS HAVE THE RIGHT TO SELECT THE
PHARMACY OF THEIR CHOICE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new section to read:

§ 58-51-58. Pharmacy of choice.

(a) This section shall apply to all medical benefit contracts and health insurance policies and employee benefit plans providing pharmaceutical services benefits, including without limitation, prescription drugs, to any resident of North Carolina. This section shall also apply to insurance companies and health maintenance organizations which provide or administer coverages and benefits for prescription drugs.

(b) As used in this section:

(1) 'Copayment' means a type of cost sharing whereby insured or covered persons pay a specified predetermined amount per unit of service with their insurer paying the remainder of the charge. The copayment is incurred at the time the service is used. The copayment may be a fixed or variable amount.

(2) 'Contract provider' means a pharmacy granted the right to provide prescription drugs and pharmacy services according to the terms of the insurer.

(3) 'Insurer' means any individual, business entity, or health maintenance organization that provides health care coverage benefits for pharmacy services including, but not limited to, prescription drugs.

- 1 (4) 'Pharmacy' means a pharmacy licensed by the North Carolina Board of
2 Pharmacy.
- 3 (5) 'Policy' means a contract or agreement, including a health insurance
4 contract, which provides for direct payment or reimbursement of all or
5 part of the costs of pharmacy services and prescription drugs for a
6 person who is a beneficiary under the policy.
- 7 (6) 'Plan' means an arrangement for the delivery of health care services
8 under which a person receives medical and health care benefits,
9 including pharmacy services and prescription drugs.
- 10 (c) An insurer, or the terms of a policy or plan, shall not:
- 11 (1) Prohibit or limit a resident of this State, who is eligible for
12 reimbursement for pharmacy services as a participant or beneficiary of
13 a policy or plan, from selecting a pharmacy of his or her choice when
14 the pharmacy has agreed to participate in the policy or plan according
15 to the terms offered by the insurer;
- 16 (2) Deny a pharmacy the opportunity to participate as a contract provider
17 under a policy or plan if the pharmacy agrees to provide pharmacy
18 services that meet the terms and requirements, including terms of
19 reimbursement, of the insurer under the policy or plan;
- 20 (3) Impose upon a beneficiary of pharmacy services under a policy or plan
21 any copayment, fee, or condition that is not equally imposed upon all
22 beneficiaries in the same benefit category, class, or copayment level
23 under the policy or plan;
- 24 (4) Impose a monetary disincentive or penalty under a policy or plan that
25 would affect a beneficiary's choice of pharmacy. Monetary
26 disincentives or penalties include, without limitation, higher
27 copayment, or a reduction in reimbursement for services, or promotion
28 of one pharmacy over another;
- 29 (5) Offer, administer, or include in a plan or policy a provision that
30 reduces allowable reimbursement for pharmacy services to a
31 beneficiary under the policy or plan because the beneficiary selects a
32 pharmacy of his or her choice, so long as that pharmacy has enrolled
33 with the policy or plan under the terms offered to all pharmacies in the
34 plan coverage area; or
- 35 (6) Require a beneficiary, as a condition of payment or reimbursement, to
36 purchase pharmacy services, including prescription drugs, only
37 through a mail-order pharmacy.
- 38 (d) A pharmacy may not waive, discount, rebate, or distort a copayment of any
39 insurer, policy, or plan, or a beneficiary's coinsurance portion of a prescription drug
40 coverage or reimbursement.
- 41 (e) At least 60 days before the effective date of any policy or plan providing
42 reimbursement to North Carolina residents for prescription drugs, the insurer sponsoring
43 the policy or plan shall notify, in writing, all pharmacies within the geographical
44 coverage area of the plan, and offer to the pharmacies the opportunity to participate in

1 the policy or plan. All pharmacies in the geographical coverage area of the plan shall be
2 eligible to participate under identical reimbursement terms for providing pharmacy
3 services, including prescription drugs.

4 (f) The Commissioner shall enforce the provisions of this section, and shall issue
5 rules necessary for its enforcement.

6 (g) If rebates or marketing incentives are allowed to pharmacies providing
7 services under a policy or plan, these rebates or marketing initiatives shall be offered on
8 an equal basis to all pharmacies providing services under the policy or plan.

9 (h) A violation of this section shall be an unfair trade practice under Article 63 of
10 this Chapter and shall be enforced to the extent allowed by law.

11 (i) The Commissioner shall not approve for sale any health insurance policy or
12 employee benefit plan providing for pharmaceutical services which does not conform to
13 the provisions of this section.

14 (j) Any provision in a health insurance policy or employee benefit plan which is
15 executed, delivered, or renewed, or otherwise contracted for in this State that is contrary
16 to any provision of this section shall, to the extent of the conflict, be void.

17 (k) It shall be a violation of this section for any insurer or any person to provide
18 any health insurance policy or employee benefit plan providing for pharmaceutical
19 services to residents of this State that does not conform to the provisions of this
20 section."

21 Sec. 2. This act becomes effective October 1, 1993.