

Senate Bill 103

By: Senators Mullis of the 53rd, Ginn of the 47th, Beach of the 21st, Burke of the 11th, Hill of the 6th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to
2 regulation and licensure of pharmacy benefits managers, so as to authorize the Commissioner
3 of Insurance to promulgate certain rules and regulations; to prohibit pharmacy benefits
4 managers from requiring the use of mail-order pharmacies under certain conditions; to
5 provide for exceptions; to provide for certain prohibitions; to provide for related matters; to
6 provide for an effective date and applicability; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and
11 licensure of pharmacy benefits managers, is amended by revising Code Section 33-64-7,
12 relating to commissioner not authorized to extend rules and regulations and commissioner
13 authorized to enforce provisions of chapter, as follows:

14 "33-64-7.

15 The Commissioner may not enlarge upon or extend the specific provisions of this chapter
16 through any act, rule, or regulation; provided, however, that the Commissioner is
17 authorized to enforce any specific provision of this chapter and may promulgate rules and
18 regulations to effectuate the specific provisions of this chapter."

19 **SECTION 2.**

20 Said chapter is further amended by adding new Code sections to read as follows:

21 "33-64-10.

22 (a) When administering claims on behalf of group or blanket accident and sickness
23 insurers subject to Chapter 30 of this title, a pharmacy benefits manager shall administer
24 claims in compliance with Code Section 33-30-4.3 and shall not require insureds to use a
25 mail-order pharmaceutical distributor including a mail-order pharmacy.

26 (b) Code Section 33-30-4.3 shall apply to individual accident and sickness policies issued
 27 pursuant to Chapter 29 of this title and, when administering claims on behalf of individual
 28 accident and sickness insurers subject to Chapter 29 of this title, a pharmacy benefits
 29 manager shall administer claims in compliance with Code Section 33-30-4.3 and shall not
 30 require insureds to use a mail-order pharmaceutical distributor including a mail-order
 31 pharmacy.

32 (c) This Code section shall not apply to:

33 (1) A care management organization, as defined in Chapter 21A of this title;

34 (2) The Department of Community Health, as defined in Chapter 2 of Title 31;

35 (3) The State Health Benefit Plan under Article 1 of Chapter 18 of Title 45; or

36 (4) Any licensed group model health maintenance organization with an exclusive
 37 medical group contract and which operates its own pharmacies licensed under Code
 38 Section 26-4-110.1.

39 33-64-11.

40 (a) A pharmacy benefits manager shall be proscribed from:

41 (1) Prohibiting a pharmacist or pharmacy from providing an insured individual
 42 information on the amount of the insured's cost share for such insured's prescription drug
 43 and the clinical efficacy of a more affordable alternative drug if one is available. Neither
 44 a pharmacy nor a pharmacist shall be penalized by a pharmacy benefits manager for
 45 disclosing such information to an insured or for selling to an insured a more affordable
 46 alternative if one is available;

47 (2) Prohibiting a pharmacist or pharmacy from offering and providing store direct
 48 delivery services to an insured as an ancillary service of the pharmacy;

49 (3) Charging or collecting from an insured a copayment that exceeds the total submitted
 50 charges by the network pharmacy for which the pharmacy is paid;

51 (4) Charging or holding a pharmacist or pharmacy responsible for a fee relating to the
 52 adjudication of a claim;

53 (5) Recouping funds from a pharmacy in connection with claims for which the pharmacy
 54 has already been paid without first complying with the requirements set forth in Code
 55 Section 26-4-118, unless such recoupment is otherwise permitted or required by law; and

56 (6) Penalizing or retaliating against a pharmacist or pharmacy for exercising rights under
 57 this chapter or Code Section 26-4-118.

58 (b) To the extent that any provision of this Code section is inconsistent or conflicts with
 59 applicable federal law, rule, or regulation, such applicable federal law, rule, or regulation
 60 shall apply.

61 (c) This Code section shall not apply to:

- 62 (1) A care management organization, as defined in Chapter 21A of this title;
63 (2) The Department of Community Health, as defined in Chapter 2 of Title 31;
64 (3) The State Health Benefit Plan under Article 1 of Chapter 18 of Title 45; or
65 (4) Any licensed group model health maintenance organization with an exclusive
66 medical group contract and which operates its own pharmacies licensed under Code
67 Section 26-4-110.1."

68 **SECTION 3.**

69 This Act shall become effective on July 1, 2017, and shall apply to all contracts issued,
70 delivered, or issued for delivery in this state on and after such date.

71 **SECTION 4.**

72 All laws and parts of laws in conflict with this Act are repealed.