

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

DRAFT

LLS NO. 23-0773.02 Kristen Forrestal x4217

HOUSE BILL

HOUSE SPONSORSHIP

Daugherty and Soper,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PRESCRIPTION DRUG BENEFITS CONTRACT TERM**
102 **REQUIREMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

For group benefit plan contracts between a pharmacy benefit manager (PBM) or a health insurance carrier (carrier) and an employer, certificate holder, or policyholder, the bill requires that the amount charged by the PBM or carrier to the employer, certificate holder, or policyholder for a prescription drug be equal to or less than the amount paid by the PBM or carrier to the contracted pharmacy for the drug.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

The bill creates transparency requirements for PBMs and carriers regarding prescription drug benefits and grants audit authority to the department of health care policy and financing for self-funded plans and to the commissioner of insurance for fully insured plans, on request of the office of the attorney general, to ensure compliance with the requirements.

A violation of the requirements of the bill is a deceptive trade practice under the "Colorado Consumer Protection Act", with regard to self-funded plans, and a deceptive trade practice in the business of insurance, with regard to fully insured plans.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 16 to article 1 of title 6 as follows:

PART 16

PHARMACY BENEFIT MANAGER CONTRACTS

6-1-1601. Definitions. AS USED IN THIS PART 16, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BENEFICIARY" MEANS A PERSON ENTITLED TO RECEIVE HEALTH BENEFITS OR SERVICES UNDER AN EMPLOYER-SPONSORED PLAN.

(2) "CARRIER" MEANS ANY ENTITY THAT OFFERS HEALTH COVERAGE IN THIS STATE.

(3) "CONTRACTED PHARMACY" MEANS A PHARMACY THAT HAS CONTRACTED WITH A CARRIER, A PHARMACY BENEFIT MANAGER, OR AN AFFILIATE OF THE CARRIER OR PBM.

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

(5) "EMPLOYER-SPONSORED PLAN" MEANS A PLAN THAT PROVIDES FOR HEALTH BENEFITS, INCLUDING PLANS THAT ARE CLASSIFIED AS SELF-INSURED OR INSURED OR REGULATED BY THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT", 29 U.S.C. 1001, ET SEQ., OFFERED

1 BY:

2 (a) A PERSON, TAFT-HARTLEY TRUST, MUNICIPALITY, STATE, OR
3 LABOR UNION;

4 (b) ANY PLAN SPONSOR, INCLUDING AN EMPLOYER; OR

5 (c) AN EMPLOYER COALITION OR AGGREGATION OF EMPLOYERS
6 WORKING TOGETHER TO NEGOTIATE IMPROVED CONTRACT TERMS WITH A
7 PHARMACY BENEFIT MANAGER.

8 (6) "INGREDIENT COST" MEANS THE ACTUAL AMOUNT PAID TO A
9 PHARMACY BY A PHARMACY BENEFIT MANAGER FOR A PRESCRIPTION
10 DRUG, NOT INCLUDING A DISPENSING FEE OR PATIENT COST-SHARING
11 AMOUNT.

12 (7) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
13 TRUST, ESTATE, TRUST, PARTNERSHIP, UNINCORPORATED ASSOCIATION, OR
14 TWO OR MORE OF SUCH ENTITIES HAVING A JOINT OR COMMON INTEREST,
15 OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

16 (8) "PHARMACY" MEANS AN ENTITY WHERE MEDICINAL DRUGS ARE
17 DISPENSED AND SOLD, INCLUDING A RETAIL PHARMACY, MAIL-ORDER
18 PHARMACY, SPECIALTY PHARMACY, HOSPITAL OUTPATIENT SETTING, OR
19 OTHER RELATED PHARMACY.

20 (9) "PHARMACY BENEFIT MANAGEMENT" MEANS:

21 (a) ARRANGING TO PROCURE PRESCRIPTION DRUGS AT A
22 NEGOTIATED RATE FOR DISPENSATION WITHIN THIS STATE TO
23 BENEFICIARIES; AND

24 (b) ADMINISTERING OR MANAGING PRESCRIPTION DRUG BENEFITS
25 INCLUDING PHARMACY NETWORK CONTRACTING, CLAIMS PROCESSING AND
26 MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR
27 PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES.

1 (10) "PHARMACY BENEFIT MANAGER" OR "PBM" MEANS AN
2 ENTITY THAT PERFORMS ANY ASPECT OF PHARMACY BENEFIT
3 MANAGEMENT. "PHARMACY BENEFIT MANAGER" OR "PBM" INCLUDES:

4 (a) A PERSON IN A CONTRACTUAL, EMPLOYMENT, AFFILIATE, OR
5 OWNERSHIP RELATIONSHIP WITH AN ENTITY PERFORMING PHARMACY
6 BENEFIT MANAGEMENT, AS WELL AS THE CONTRACTING PARTY FOR THE
7 PHARMACY BENEFIT MANAGER AND ITS AFFILIATES, IF APPLICABLE; AND

8 (b) ANY OTHER AFFILIATE CONTRACTING WITH A CONTRACTED
9 EMPLOYER TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES.

10 (11) "TAFT-HARTLEY TRUST" MEANS A MULTI-EMPLOYER, JOINTLY
11 MANAGED BENEFIT TRUST SPONSORED BY JOINT BOARDS OF BOTH LABOR
12 AND MANAGEMENT TRUSTEES REPRESENTING PARTICIPANTS FROM MANY
13 ORGANIZATIONS, USUALLY WITHIN THE SAME INDUSTRIES OR LABOR
14 UNION.

15 **6-1-1602. Pharmacy benefit managers - contract terms -**
16 **transparency requirements - rules.** (1) FOR A CONTRACT BETWEEN A
17 PHARMACY BENEFIT MANAGER OR ITS CARRIER AFFILIATE AND A PERSON
18 OFFERING AN EMPLOYER-SPONSORED PLAN THAT IS ISSUED OR RENEWED
19 ON OR AFTER JANUARY 1, 2025, THE AMOUNT CHARGED BY THE CARRIER
20 OR PBM TO THE PERSON OFFERING AN EMPLOYER-SPONSORED PLAN FOR
21 A PRESCRIPTION DRUG DISPENSED TO A BENEFICIARY MUST BE EQUAL TO
22 OR LESS THAN THE AMOUNT PAID BY THE CARRIER OR PBM TO A
23 CONTRACTED PHARMACY FOR SUCH PRESCRIPTION DRUG DISPENSED TO
24 SUCH BENEFICIARY RESIDING IN COLORADO.

25 (2) (a) A CARRIER OR PHARMACY BENEFIT MANAGER SHALL
26 DISCLOSE TO EACH EMPLOYER THAT HAS A CONTRACT IN EFFECT WITH THE
27 CARRIER OR PBM AT ANY TIME DURING CALENDAR YEAR 2025 THE

1 PRESCRIPTION DRUG CONTRACT TERMS REQUIRED BY THIS SUBSECTION (2).
2 FOR CONTRACTS IN EFFECT DURING CALENDAR YEAR 2023 OR 2024, OR
3 BOTH, THE DISCLOSURE MUST ALSO INCLUDE ANY CHANGES IN TERMS
4 BETWEEN EACH CALENDAR YEAR.

5 (b) THE DISCLOSURES PURSUANT TO THIS SUBSECTION (2) MUST
6 INCLUDE:

7 (I) THE INGREDIENT COST AVERAGE REIMBURSEMENT RATE FOR:

8 (A) GENERIC DRUGS DISPENSED AT RETAIL PHARMACIES;

9 (B) BRAND-NAME DRUGS DISPENSED AT RETAIL PHARMACIES;

10 (C) SPECIALTY DRUGS DISPENSED AT RETAIL PHARMACIES;

11 (D) GENERIC DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;

12 (E) BRAND-NAME DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;

13 (F) SPECIALTY DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;

14 AND

15 (G) SPECIALTY DRUGS DISPENSED AT ANY SPECIALTY PHARMACY,
16 INCLUDING A PHARMACY THAT IS FULLY OR PARTIALLY OWNED BY A
17 CONTRACTING PBM, CARRIER, OR THE PBM'S OR CARRIER'S HOLDING
18 COMPANIES OR AFFILIATES;

19 (II) THE AVERAGE DISPENSING FEE PAID TO EACH TYPE OF
20 PHARMACY, INCLUDING RETAIL, MAIL-ORDER, AND SPECIALTY
21 PHARMACIES;

22 (III) THE CHARGE PER PRIOR AUTHORIZATION;

23 (IV) UTILIZATION MANAGEMENT PROGRAMS AND ASSOCIATED
24 FEES;

25 (V) ANY OTHER CONTRACTED SERVICES AND ASSOCIATED FEES;

26 (VI) THE AVERAGE REBATE PER PRESCRIPTION AND PER
27 REBATABLE PRESCRIPTION; AND

1 (VII) THE REBATE GUARANTEE, WHERE APPLICABLE.

2 (c) FOR CONTRACTS BETWEEN A CARRIER OR PHARMACY BENEFIT
3 MANAGER AND AN EMPLOYER THAT ARE RENEWED IN CALENDAR YEAR
4 2025, THE CARRIER OR PBM SHALL CALCULATE AND COMMUNICATE TO
5 THE EMPLOYER THE VALUE OF THE DIFFERENCE BETWEEN THE CONTRACT
6 TERMS IN THE 2025 RENEWED CONTRACTS AND THE CONTRACTS THAT
7 WERE IN EFFECT IN CALENDAR YEAR 2024, ANNUALIZING THE FIRST SIX
8 MONTHS OF 2024 ACTUAL DATA FOR EACH RESPECTIVE EMPLOYER. THE
9 VALUE COMMUNICATED SHALL INCLUDE ANNUAL AGGREGATE SAVINGS,
10 ANNUAL AGGREGATE SAVINGS PER EMPLOYEE PER YEAR, AND ANNUAL
11 AGGREGATE SAVINGS PER BENEFICIARY PER YEAR.

12 (d) A CARRIER OR PHARMACY BENEFIT MANAGER SHALL PROVIDE
13 TO EACH EMPLOYER, FOR VOLUNTARY CONSIDERATION, OPTIONS TO
14 REPURPOSE AGGREGATE SAVINGS IN THE FORM OF REDUCTIONS TO
15 OUT-OF-POCKET COSTS SUCH AS DEDUCTIBLES, COPAYMENT AMOUNTS,
16 COINSURANCE, OR PREMIUM CONTRIBUTIONS. THE CARRIER OR PBM
17 SHALL PROVIDE THE INFORMATION TO EMPLOYERS NO LESS THAN NINETY
18 DAYS BEFORE THE DATE OF THE CALENDAR YEAR 2025 CONTRACT
19 RENEWAL.

20 (e) A CARRIER OR PBM SHALL PROVIDE THE INFORMATION
21 SPECIFIED IN SUBSECTIONS (2)(b), (2)(c), AND (2)(d) OF THIS SECTION TO
22 ALL CONTRACTED EMPLOYERS FOR CONTRACTS IN EFFECT DURING
23 CALENDAR YEAR 2025, INCLUDING CONTRACTED EMPLOYERS THAT MAY
24 NOT RECEIVE A RENEWAL NOTICE DUE TO A MULTIYEAR CONTRACTUAL
25 AGREEMENT OR FOR ANY OTHER REASON, EXCEPT NOTICE OF
26 TERMINATION.

27 (3) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL, IN

1 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
2 ARTICLE 4 OF TITLE 24, PROMULGATE RULES TO IMPLEMENT SUBSECTION
3 (2) OF THIS SECTION.

4 **6-1-1603. Audits - rules.** (1) THE OFFICE OF THE ATTORNEY
5 GENERAL MAY REQUEST THE DEPARTMENT TO CONDUCT AN AUDIT OF A
6 CARRIER OR PHARMACY BENEFIT MANAGER TO ENSURE COMPLIANCE WITH
7 THIS PART 16. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
8 EXECUTIVE DIRECTOR'S DESIGNEE, IN COLLABORATION WITH THE DIVISION
9 OF INSURANCE, AS APPROPRIATE, MAY AUDIT, PURSUANT TO RULES
10 PROMULGATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, A
11 CARRIER OR PBM TO DETERMINE IF THERE IS A VIOLATION OF THIS PART
12 16.

13 (2) THE DEPARTMENT MAY DETERMINE A CARRIER'S OR PBM'S
14 COMPLIANCE WITH THIS PART 16 BASED ON A SAMPLING OF DATA OR
15 BASED ON A FULL AUDIT OF ALL HEALTH BENEFIT CLAIMS. THE SAMPLING
16 OF DATA AND ANY EXTRAPOLATION FROM THE DATA USED TO DETERMINE
17 PENALTIES MUST BE REASONABLY VALID FROM A STATISTICAL
18 STANDPOINT AND IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING
19 STANDARDS. ANY CARRIER OR PBM THAT DOES NOT COMPLY WITH A
20 DEPARTMENT REQUEST FOR THE DATA REQUIRED TO COMPLETE AN AUDIT
21 VIOLATES THIS PART 16 AND MAY BE PENALIZED FOR EACH DATA ELEMENT
22 MISSING FROM THE RESPONSE TO THE REQUEST.

23 (3) INFORMATION OBTAINED THROUGH AN AUDIT CONDUCTED
24 PURSUANT TO THIS SECTION IS CONSIDERED PROPRIETARY AND
25 CONFIDENTIAL INFORMATION, AVAILABLE ONLY TO THE DEPARTMENT, THE
26 COMMISSIONER OF INSURANCE, THEIR AUDIT DESIGNEES, AND THE
27 ATTORNEY GENERAL'S OFFICE, AND IS NOT SUBJECT TO DISCLOSURE

1 UNLESS SPECIFICALLY REQUIRED BY STATE OR FEDERAL LAW.

2 **6-1-1604. Unfair or deceptive trade practice - enforcement.** A
3 VIOLATION OF THIS PART 16 IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE
4 AND SHALL BE ENFORCED BY THE ATTORNEY GENERAL, WHO HAS ALL
5 POWERS AND AUTHORITY GRANTED IN SECTIONS 6-1-107 TO 6-1-113 FOR
6 THE PURPOSES OF ENFORCING THIS PART 16.

7 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-158 as
8 follows:

9 **10-16-158. Contracts - health benefit plans - pharmacy benefit**
10 **managers - policyholders - transparency requirements - rules -**
11 **definitions.** (1) FOR A CONTRACT BETWEEN A CARRIER OR PHARMACY
12 BENEFIT MANAGER AND A CERTIFICATE HOLDER OR POLICYHOLDER THAT
13 IS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2025, THE AMOUNT
14 CHARGED BY THE CARRIER OR **PBM** TO THE CERTIFICATE HOLDER OR
15 POLICYHOLDER FOR A PRESCRIPTION DRUG DISPENSED TO A COVERED
16 PERSON MUST BE EQUAL TO OR LESS THAN THE AMOUNT PAID BY THE
17 CARRIER OR **PBM** TO A CONTRACTED PHARMACY FOR SUCH PRESCRIPTION
18 DRUG DISPENSED TO SUCH COVERED PERSON RESIDING IN COLORADO.

19 (2) (a) FOR GROUP HEALTH BENEFIT PLANS IN EFFECT DURING
20 CALENDAR YEAR 2025, A CARRIER OR PHARMACY BENEFIT MANAGER
21 SHALL DISCLOSE TO EACH CERTIFICATE HOLDER OR POLICYHOLDER THE
22 PRESCRIPTION DRUG CONTRACT TERMS REQUIRED BY THIS SUBSECTION (2).
23 FOR GROUP HEALTH BENEFIT PLANS IN EFFECT DURING CALENDAR YEAR
24 2023 OR 2024, OR BOTH, THE DISCLOSURE MUST ALSO INCLUDE ANY
25 CHANGES IN TERMS BETWEEN EACH CALENDAR YEAR.

26 (b) THE DISCLOSURES PURSUANT TO THIS SUBSECTION (2) MUST
27 INCLUDE:

- 1 (I) THE INGREDIENT COST AVERAGE REIMBURSEMENT RATE FOR:
2 (A) GENERIC DRUGS DISPENSED AT RETAIL PHARMACIES;
3 (B) BRAND-NAME DRUGS DISPENSED AT RETAIL PHARMACIES;
4 (C) SPECIALTY DRUGS DISPENSED AT RETAIL PHARMACIES;
5 (D) GENERIC DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;
6 (E) BRAND-NAME DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;
7 (F) SPECIALTY DRUGS DISPENSED AT MAIL-ORDER PHARMACIES;
8 AND
9 (G) SPECIALTY DRUGS DISPENSED AT ANY SPECIALTY PHARMACY,
10 INCLUDING A PHARMACY THAT IS FULLY OR PARTIALLY OWNED BY A
11 CONTRACTING PBM, CARRIER, OR THE PBM'S OR CARRIER'S HOLDING
12 COMPANIES OR AFFILIATES;
13 (II) THE AVERAGE DISPENSING FEE PAID TO EACH TYPE OF
14 PHARMACY, INCLUDING EACH RETAIL, MAIL-ORDER, AND SPECIALTY
15 PHARMACY;
16 (III) THE CHARGE PER PRIOR AUTHORIZATION;
17 (IV) UTILIZATION MANAGEMENT PROGRAMS AND ASSOCIATED
18 FEES;
19 (V) ANY OTHER CONTRACTED SERVICES AND ASSOCIATED FEES;
20 (VI) THE AVERAGE REBATE PER PRESCRIPTION AND PER
21 REBATABLE PRESCRIPTION; AND
22 (VII) THE REBATE GUARANTEE, WHERE APPLICABLE.

23 (c) FOR CONTRACTS BETWEEN A CARRIER OR PHARMACY BENEFIT
24 MANAGER AND A CERTIFICATE HOLDER OR POLICYHOLDER THAT ARE
25 RENEWED IN CALENDAR YEAR 2025, THE CARRIER OR PBM SHALL
26 CALCULATE AND COMMUNICATE TO THE CERTIFICATE HOLDER OR
27 POLICYHOLDER THE VALUE OF THE DIFFERENCE BETWEEN THE CONTRACT

1 TERMS IN THE 2025 RENEWED CONTRACTS AND THE CONTRACTS THAT
2 WERE IN EFFECT IN CALENDAR YEAR 2024, ANNUALIZING THE FIRST SIX
3 MONTHS OF 2024 ACTUAL DATA FOR EACH RESPECTIVE CERTIFICATE
4 HOLDER OR POLICYHOLDER. THE VALUE COMMUNICATED SHALL INCLUDE
5 ANNUAL AGGREGATE SAVINGS, ANNUAL AGGREGATE SAVINGS PER
6 EMPLOYEE PER YEAR, AND ANNUAL AGGREGATE SAVINGS PER COVERED
7 PERSON PER YEAR.

8 (d) A CARRIER OR PHARMACY BENEFIT MANAGER SHALL PROVIDE
9 TO EACH CERTIFICATE HOLDER OR POLICYHOLDER, FOR VOLUNTARY
10 CONSIDERATION, OPTIONS TO REPURPOSE AGGREGATE SAVINGS IN THE
11 FORM OF REDUCTIONS TO OUT-OF-POCKET COSTS SUCH AS DEDUCTIBLES,
12 COPAYMENT AMOUNTS, COINSURANCE, OR PREMIUM CONTRIBUTIONS. THE
13 CARRIER OR PBM SHALL PROVIDE THE INFORMATION TO CERTIFICATE
14 HOLDERS OR POLICYHOLDERS NO LESS THAN NINETY DAYS BEFORE THE
15 DATE OF THE CALENDAR YEAR 2025 CONTRACT RENEWAL.

16 (e) A CARRIER OR PBM SHALL PROVIDE THE INFORMATION
17 SPECIFIED IN SUBSECTIONS (2)(b), (2)(c), AND (2)(d) OF THIS SECTION TO
18 ALL CERTIFICATE HOLDERS AND POLICYHOLDERS FOR CONTRACTS IN
19 EFFECT DURING CALENDAR YEAR 2025, INCLUDING CERTIFICATE HOLDERS
20 AND POLICYHOLDERS THAT MAY NOT RECEIVE A RENEWAL NOTICE DUE TO
21 A MULTIYEAR CONTRACTUAL AGREEMENT OR FOR ANY OTHER REASON,
22 EXCEPT NOTICE OF TERMINATION.

23 (3) THE COMMISSIONER, IN COLLABORATION WITH THE EXECUTIVE
24 DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,
25 SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION.

26 (4) (a) THE COMMISSIONER MAY CONDUCT AN AUDIT OR MARKET
27 CONDUCT EXAMINATION OF A CARRIER OR PHARMACY BENEFIT MANAGER

1 TO ENSURE COMPLIANCE WITH THIS SECTION AND MAY, AS APPROPRIATE,
2 CONDUCT THE AUDIT OR MARKET CONDUCT EXAMINATION IN
3 CONJUNCTION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND
4 FINANCING. THE COMMISSIONER, PURSUANT TO ANY RULES PROMULGATED
5 BY THE DIVISION IN COLLABORATION WITH THE EXECUTIVE DIRECTOR OF
6 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AS
7 APPROPRIATE, MAY AUDIT A CARRIER OR PBM ANNUALLY TO DETERMINE
8 IF THERE IS A VIOLATION OF THIS SECTION.

9 (b) THE COMMISSIONER MAY DETERMINE A CARRIER'S OR PBM'S
10 COMPLIANCE WITH THIS SECTION BASED ON A SAMPLING OF DATA OR
11 BASED ON A FULL CLAIMS AUDIT. THE SAMPLING OF DATA AND ANY
12 EXTRAPOLATION FROM THE DATA USED TO DETERMINE PENALTIES MUST
13 BE REASONABLY VALID FROM A STATISTICAL STANDPOINT AND IN
14 ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS. A
15 CARRIER OR PBM THAT DOES NOT COMPLY WITH A DIVISION REQUEST FOR
16 THE DATA REQUIRED TO COMPLETE AN AUDIT VIOLATES THIS SECTION AND
17 MAY BE SUBJECT TO PENALTIES.

18 (c) INFORMATION OBTAINED THROUGH AN AUDIT CONDUCTED
19 PURSUANT TO THIS SUBSECTION (4) IS PROPRIETARY AND CONFIDENTIAL
20 INFORMATION, AVAILABLE ONLY TO THE DEPARTMENT OF HEALTH CARE
21 POLICY AND FINANCING, THE COMMISSIONER, THEIR AUDITING DESIGNEES,
22 AND THE ATTORNEY GENERAL'S OFFICE, AND IS NOT SUBJECT TO
23 DISCLOSURE UNLESS SPECIFICALLY REQUIRED BY STATE OR FEDERAL LAW.

24 (5) THE FAILURE OF A CARRIER OR PBM TO COMPLY WITH THIS
25 SECTION IS AN UNFAIR METHOD OF COMPETITION AND AN UNFAIR OR A
26 DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE PURSUANT
27 TO SECTION 10-3-1104 (1).

1 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "CONTRACTED PHARMACY" MEANS A PHARMACY THAT HAS
4 CONTRACTED WITH A CARRIER, A PHARMACY BENEFIT MANAGER, OR AN
5 AFFILIATE OF THE CARRIER OR PBM.

6 (b) "INGREDIENT COST" MEANS THE ACTUAL AMOUNT PAID TO A
7 PHARMACY BY A PHARMACY BENEFIT MANAGER FOR A PRESCRIPTION
8 DRUG, NOT INCLUDING A DISPENSING FEE OR PATIENT COST-SHARING
9 AMOUNT.

10 (c) "PHARMACY" MEANS AN ENTITY WHERE MEDICINAL DRUGS ARE
11 DISPENSED AND SOLD, INCLUDING A RETAIL PHARMACY, MAIL-ORDER
12 PHARMACY, SPECIALTY PHARMACY, HOSPITAL OUTPATIENT SETTING, OR
13 OTHER RELATED PHARMACY.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.