

SENATE BILL REPORT

SB 5076

As of January 22, 2021

Title: An act relating to prescription coverage and the use of mail order services.

Brief Description: Concerning mail order prescription services.

Sponsors: Senators Kuderer, Short, Conway, Das, Saldaña, Stanford and Wilson, C..

Brief History:

Committee Activity: Health & Long Term Care: 1/22/21.

Brief Summary of Bill

- Requires health carriers to include in any contract with a pharmacy benefit manager (PBM) a requirement that the PBM receive enrollee authorization prior to filling prescriptions through a nonresident pharmacy.
- Requires health plans and nonresident pharmacies to provide notices to health plan enrollees about the use of nonresident pharmacies

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: Nonresident pharmacies are pharmacies located outside of Washington State that ship, mail, or deliver prescription drugs, including both controlled substances and legend drugs, and devices into the state. Nonresident pharmacies are licensed by the Department of Health.

Many health insurance carriers contract with a pharmacy benefit manager (PBM) to manage health plan pharmacy benefits, including network development with pharmacies, processing claims, maintaining a formulary, negotiating with manufacturers for rebates, and managing

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mail order services.

Summary of Bill: Health plans issued on or after January 1, 2022, that include prescription drug coverage, must protect enrollees from unintentional use of or enrollment in a nonresident pharmacy.

Health carriers must include in any contract with a PBM, a requirement that the PBM require a contracted nonresident pharmacy to obtain affirmative authorization from a health plan enrollee—in writing or by electronic communication—prior to filling the enrollee's prescription through a nonresident pharmacy or billing an enrollee's health plan. The authorization may permit the use of a nonresident pharmacy for the plan year.

Nonresident pharmacies must include instructions for how to terminate use of their services in each pharmaceutical shipment.

Health carriers must include information in their health plan booklets explaining the need for obtaining affirmative authorization from the enrollee prior to filling a prescription through a nonresident pharmacy. Health plans must allow enrollees to opt out of mandatory use of a nonresident pharmacy. Health plans may not require an enrollee to purchase pharmacy services exclusively through a nonresident pharmacy.

Nonresident pharmacies with a specialty pharmacy accreditation from a nationally recognized accreditation entity are exempt from the requirements to obtain affirmative authorization and provide instructions on terminating the use of services, and the prohibitions on health plans requiring an enrollee to purchase pharmacy services exclusively through a nonresident pharmacy, do not apply to nonresident pharmacies with a specialty accreditation.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: January 1, 2022

Staff Summary of Public Testimony: PRO: Enrollees should know if they will be required to use a nonresident pharmacy and should be able to opt out. Prices for drugs at nonresident pharmacies are not always lower than at a community pharmacy. Access to medication can be life saving and patients should have options of how to obtain their prescriptions and have the option for face- to- face interaction. Forced use of nonresident pharmacies creates artificial pharmacy deserts and real pharmacy deserts when community pharmacies are forced to close.

CON: This bill creates unnecessary restrictions on nonresident pharmacies when people are relying on them during the pandemic. An opt in provision is not realistic. A health plan design is meant to be used on group basis and it would be inefficient to allow individuals to opt out. Pre-authorization for the use of a nonresident pharmacy will delay delivery of needed medications.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Frank James, citizen; Julie Akers, citizen; Joseph Cammack, Jim's Pharmacy; Jenny Arnold, Washington State Pharmacy Association; Richard McCoy, Lopez Island Pharmacy; Rick Hughes, Ray's General Store and Pharmacy.

CON: Chris Bandoli, Association of Washington Healthcare Plans; Mel Sorensen, America's Health Insurance Plans; Bill Head, Pharmaceutical Care Management Association; LuGina Mendez-Harper, PharmD and Prime Therapeutics.

Persons Signed In To Testify But Not Testifying: No one.