

**2SSB 5213 - S AMD 570**  
By Senator Kuderer

**ADOPTED AS AMENDED 02/12/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 48.200.020 and 2020 c 240 s 2 are each amended to  
4 read as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Affiliate" or "affiliated employer" means a person who  
8 directly or indirectly through one or more intermediaries, controls  
9 or is controlled by, or is under common control with, another  
10 specified person.

11 (2) "Certification" has the same meaning as in RCW 48.43.005.

12 (3) "Employee benefits programs" means programs under both the  
13 public employees' benefits board established in RCW 41.05.055 and the  
14 school employees' benefits board established in RCW 41.05.740.

15 (4)(a) "Health care benefit manager" means a person or entity  
16 providing services to, or acting on behalf of, a health carrier or  
17 employee benefits programs, that directly or indirectly impacts the  
18 determination or utilization of benefits for, or patient access to,  
19 health care services, drugs, and supplies including, but not limited  
20 to:

21 (i) Prior authorization or preauthorization of benefits or care;

22 (ii) Certification of benefits or care;

23 (iii) Medical necessity determinations;

24 (iv) Utilization review;

25 (v) Benefit determinations;

26 (vi) Claims processing and repricing for services and procedures;

27 (vii) Outcome management;

28 (viii) (~~Provider credentialing and recredentialing;~~

29 ~~(ix))~~ Payment or authorization of payment to providers and  
30 facilities for services or procedures;

31 ~~((x))~~ (ix) Dispute resolution, grievances, or appeals relating  
32 to determinations or utilization of benefits;

1       (~~(xi)~~) (x) Provider network management; or  
2       (~~(xii)~~) (xi) Disease management.

3       (b) "Health care benefit manager" includes, but is not limited  
4 to, health care benefit managers that specialize in specific types of  
5 health care benefit management such as pharmacy benefit managers,  
6 radiology benefit managers, laboratory benefit managers, and mental  
7 health benefit managers.

8       (c) "Health care benefit manager" does not include:

9       (i) Health care service contractors as defined in RCW 48.44.010;  
10       (ii) Health maintenance organizations as defined in RCW  
11 48.46.020;  
12       (iii) Issuers as defined in RCW 48.01.053;  
13       (iv) The public employees' benefits board established in RCW  
14 41.05.055;  
15       (v) The school employees' benefits board established in RCW  
16 41.05.740;  
17       (vi) Discount plans as defined in RCW 48.155.010;  
18       (vii) Direct patient-provider primary care practices as defined  
19 in RCW 48.150.010;  
20       (viii) An employer administering its employee benefit plan or the  
21 employee benefit plan of an affiliated employer under common  
22 management and control;  
23       (ix) A union administering a benefit plan on behalf of its  
24 members;  
25       (x) An insurance producer selling insurance or engaged in related  
26 activities within the scope of the producer's license;  
27       (xi) A creditor acting on behalf of its debtors with respect to  
28 insurance, covering a debt between the creditor and its debtors;  
29       (xii) A behavioral health administrative services organization or  
30 other county-managed entity that has been approved by the state  
31 health care authority to perform delegated functions on behalf of a  
32 carrier;  
33       (xiii) A hospital licensed under chapter 70.41 RCW or ambulatory  
34 surgical facility licensed under chapter 70.230 RCW, to the extent  
35 that it performs provider credentialing or recredentialing, but no  
36 other functions of a health care benefit manager as described in  
37 subsection (4) (a) of this section;  
38       (xiv) The Robert Bree collaborative under chapter 70.250 RCW;  
39       (xv) The health technology clinical committee established under  
40 RCW 70.14.090; (~~(xvi)~~)

1 (xvi) The prescription drug purchasing consortium established  
2 under RCW 70.14.060; or

3 (xvii) Any other entity that performs provider credentialing or  
4 recredentialing, but no other functions of a health care benefit  
5 manager as described in subsection (4)(a) of this section.

6 (5) "Health care provider" or "provider" has the same meaning as  
7 in RCW 48.43.005.

8 (6) "Health care service" has the same meaning as in RCW  
9 48.43.005.

10 (7) "Health carrier" or "carrier" has the same meaning as in RCW  
11 48.43.005.

12 (8) "Laboratory benefit manager" means a person or entity  
13 providing service to, or acting on behalf of, a health carrier,  
14 employee benefits programs, or another entity under contract with a  
15 carrier, that directly or indirectly impacts the determination or  
16 utilization of benefits for, or patient access to, health care  
17 services, drugs, and supplies relating to the use of clinical  
18 laboratory services and includes any requirement for a health care  
19 provider to submit a notification of an order for such services.

20 (9) "Mental health benefit manager" means a person or entity  
21 providing service to, or acting on behalf of, a health carrier,  
22 employee benefits programs, or another entity under contract with a  
23 carrier, that directly or indirectly impacts the determination of  
24 utilization of benefits for, or patient access to, health care  
25 services, drugs, and supplies relating to the use of mental health  
26 services and includes any requirement for a health care provider to  
27 submit a notification of an order for such services.

28 (10) "Network" means the group of participating providers,  
29 pharmacies, and suppliers providing health care services, drugs, or  
30 supplies to beneficiaries of a particular carrier or plan.

31 (11) "Person" includes, as applicable, natural persons, licensed  
32 health care providers, carriers, corporations, companies, trusts,  
33 unincorporated associations, and partnerships.

34 (12)(a) "Pharmacy benefit manager" means a person that contracts  
35 with pharmacies on behalf of an insurer, a third-party payor, or the  
36 prescription drug purchasing consortium established under RCW  
37 70.14.060 to:

38 (i) Process claims for prescription drugs or medical supplies or  
39 provide retail network management for pharmacies or pharmacists;

1 (ii) Pay pharmacies or pharmacists for prescription drugs or  
2 medical supplies;

3 (iii) Negotiate rebates, discounts, or other price concessions  
4 with manufacturers for drugs paid for or procured as described in  
5 this subsection;

6 (iv) ~~((Manage))~~ Establish or manage pharmacy networks; or

7 (v) Make credentialing determinations.

8 (b) "Pharmacy benefit manager" does not include a health care  
9 service contractor as defined in RCW 48.44.010.

10 (13)(a) "Radiology benefit manager" means any person or entity  
11 providing service to, or acting on behalf of, a health carrier,  
12 employee benefits programs, or another entity under contract with a  
13 carrier, that directly or indirectly impacts the determination or  
14 utilization of benefits for, or patient access to, the services of a  
15 licensed radiologist or to advanced diagnostic imaging services  
16 including, but not limited to:

17 (i) Processing claims for services and procedures performed by a  
18 licensed radiologist or advanced diagnostic imaging service provider;  
19 or

20 (ii) Providing payment or payment authorization to radiology  
21 clinics, radiologists, or advanced diagnostic imaging service  
22 providers for services or procedures.

23 (b) "Radiology benefit manager" does not include a health care  
24 service contractor as defined in RCW 48.44.010, a health maintenance  
25 organization as defined in RCW 48.46.020, or an issuer as defined in  
26 RCW 48.01.053.

27 (14) "Utilization review" has the same meaning as in RCW  
28 48.43.005.

29 (15) "Covered person" has the same meaning as in RCW 48.43.005.

30 (16) "Mail order pharmacy" means a pharmacy that primarily  
31 dispenses prescription drugs to patients through the mail or common  
32 carrier.

33 (17) "Pharmacy network" means the pharmacies located in the state  
34 or licensed under chapter 18.64 RCW and contracted by a pharmacy  
35 benefit manager to dispense prescription drugs to covered persons.

36 **Sec. 2.** RCW 48.200.030 and 2020 c 240 s 3 are each amended to  
37 read as follows:

1 (1) To conduct business in this state, a health care benefit  
2 manager must register with the commissioner and annually renew the  
3 registration.

4 (2) To apply for registration with the commissioner under this  
5 section, a health care benefit manager must:

6 (a) Submit an application on forms and in a manner prescribed by  
7 the commissioner and verified by the applicant by affidavit or  
8 declaration under chapter 5.50 RCW. Applications must contain at  
9 least the following information:

10 (i) The identity of the health care benefit manager and of  
11 persons with any ownership or controlling interest in the applicant  
12 including relevant business licenses and tax identification numbers,  
13 and the identity of any entity that the health care benefit manager  
14 has a controlling interest in;

15 (ii) The business name, address, phone number, and contact person  
16 for the health care benefit manager;

17 (iii) Any areas of specialty such as pharmacy benefit management,  
18 radiology benefit management, laboratory benefit management, mental  
19 health benefit management, or other specialty;

20 (iv) A copy of the health care benefit manager's certificate of  
21 registration with the Washington state secretary of state; and

22 ~~((iv))~~ (v) Any other information as the commissioner may  
23 reasonably require.

24 (b) Pay an initial registration fee and annual renewal  
25 registration fee as established in rule by the commissioner. The fees  
26 for each registration must be set by the commissioner in an amount  
27 that ensures the registration, renewal, and oversight activities are  
28 self-supporting. If one health care benefit manager has a contract  
29 with more than one carrier, the health care benefit manager must  
30 complete only one application providing the details necessary for  
31 each contract.

32 (3) All receipts from fees collected by the commissioner under  
33 this section must be deposited into the insurance commissioner's  
34 regulatory account created in RCW 48.02.190.

35 (4) Before approving an application for or renewal of a  
36 registration, the commissioner must find that the health care benefit  
37 manager:

38 (a) Has not committed any act that would result in denial,  
39 suspension, or revocation of a registration;

40 (b) Has paid the required fees; and

1 (c) Has the capacity to comply with, and has designated a person  
2 responsible for, compliance with state and federal laws.

3 (5) Any material change in the information provided to obtain or  
4 renew a registration must be filed with the commissioner within  
5 thirty days of the change.

6 (6) Every registered health care benefit manager must retain a  
7 record of all transactions completed for a period of not less than  
8 seven years from the date of their creation. All such records as to  
9 any particular transaction must be kept available and open to  
10 inspection by the commissioner during the seven years after the date  
11 of completion of such transaction.

12 **Sec. 3.** RCW 48.200.050 and 2020 c 240 s 5 are each amended to  
13 read as follows:

14 (1) Upon notifying a carrier or health care benefit manager of an  
15 inquiry or complaint filed with the commissioner pertaining to the  
16 conduct of a health care benefit manager identified in the inquiry or  
17 complaint, the commissioner must provide notice of the inquiry or  
18 complaint (~~concurrently~~) to the health care benefit manager  
19 (~~and~~). Notice must also be sent to any carrier to which the inquiry  
20 or complaint pertains. The commissioner shall respond to and  
21 investigate complaints related to the conduct of a health care  
22 benefit manager subject to this chapter directly, without requiring  
23 that the complaint be pursued exclusively through a contracting  
24 carrier.

25 (2) Upon receipt of an inquiry from the commissioner, a health  
26 care benefit manager must provide to the commissioner within fifteen  
27 business days, in the form and manner required by the commissioner, a  
28 complete response to that inquiry including, but not limited to,  
29 providing a statement or testimony, producing its accounts, records,  
30 and files, responding to complaints, or responding to surveys and  
31 general requests. Failure to make a complete or timely response  
32 constitutes a violation of this chapter.

33 (3) Subject to chapter 48.04 RCW, if the commissioner finds that  
34 a health care benefit manager or any person responsible for the  
35 conduct of the health care benefit manager's affairs has:

36 (a) Violated any provision of this chapter or insurance law, or  
37 violated any rule, subpoena, or order of the commissioner or of  
38 another state's insurance commissioner;

1 (b) Failed to renew the health care benefit manager's  
2 registration;

3 (c) Failed to pay the registration or renewal fees;

4 (d) Provided incorrect, misleading, incomplete, or materially  
5 untrue information to the commissioner, to a carrier, or to a  
6 beneficiary;

7 (e) Used fraudulent, coercive, or dishonest practices, or  
8 demonstrated incompetence, or financial irresponsibility in this  
9 state or elsewhere; or

10 (f) Had a health care benefit manager registration, or its  
11 equivalent, denied, suspended, or revoked in any other state,  
12 province, district, or territory;

13 the commissioner may take any combination of the following actions  
14 against a health care benefit manager or any person responsible for  
15 the conduct of the health care benefit manager's affairs, other than  
16 an employee benefits program:

17 (i) Place on probation, suspend, revoke, or refuse to issue or  
18 renew the health care benefit manager's registration;

19 (ii) Issue a cease and desist order against the health care  
20 benefit manager (~~and~~), contracting carrier, or both;

21 (iii) Fine the health care benefit manager up to five thousand  
22 dollars per violation, and the contracting carrier is subject to a  
23 fine for acts conducted under the contract;

24 (iv) Issue an order requiring corrective action against the  
25 health care benefit manager, the contracting carrier acting with the  
26 health care benefit manager, or both the health care benefit manager  
27 and the contracting carrier acting with the health care benefit  
28 manager; and

29 (v) Temporarily suspend the health care benefit manager's  
30 registration by an order served by mail or by personal service upon  
31 the health care benefit manager not less than three days prior to the  
32 suspension effective date. The order must contain a notice of  
33 revocation and include a finding that the public safety or welfare  
34 requires emergency action. A temporary suspension under this  
35 subsection (3)(f)(v) continues until proceedings for revocation are  
36 concluded.

37 (4) A stay of action is not available for actions the  
38 commissioner takes by cease and desist order, by order on hearing, or  
39 by temporary suspension.

1 (5) (a) Health carriers and employee benefits programs are  
2 responsible for the compliance of any person or organization acting  
3 directly or indirectly on behalf of or at the direction of the  
4 carrier or program, or acting pursuant to carrier or program  
5 standards or requirements concerning the coverage of, payment for, or  
6 provision of health care benefits, services, drugs, and supplies.

7 (b) A carrier or program contracting with a health care benefit  
8 manager is responsible for the health care benefit manager's  
9 violations of this chapter, including a health care benefit manager's  
10 failure to produce records requested or required by the commissioner.

11 (c) No carrier or program may offer as a defense to a violation  
12 of any provision of this chapter that the violation arose from the  
13 act or omission of a health care benefit manager, or other person  
14 acting on behalf of or at the direction of the carrier or program,  
15 rather than from the direct act or omission of the carrier or  
16 program.

17 **Sec. 4.** RCW 48.200.210 and 2020 c 240 s 10 are each amended to  
18 read as follows:

19 The definitions in this section apply throughout this section and  
20 RCW 48.200.220 through 48.200.290 unless the context clearly requires  
21 otherwise.

22 (1) "Audit" means an on-site or remote review of the records of a  
23 pharmacy by or on behalf of an entity.

24 (2) "Claim" means a request from a pharmacy or pharmacist to be  
25 reimbursed for the cost of filling or refilling a prescription for a  
26 drug or for providing a medical supply or service.

27 (3) "Clerical error" means a minor error:

28 (a) In the keeping, recording, or transcribing of records or  
29 documents or in the handling of electronic or hard copies of  
30 correspondence;

31 (b) That does not result in financial harm to an entity; and

32 (c) That does not involve dispensing an incorrect dose, amount,  
33 or type of medication, failing to dispense a medication, or  
34 dispensing a prescription drug to the wrong person.

35 (4) "Entity" includes:

36 (a) A pharmacy benefit manager;

37 (b) An insurer;

38 (c) A third-party payor;

39 (d) A state agency; or



1 (e) A person that represents or is employed by one of the  
2 entities described in this subsection.

3 (5) "Fraud" means knowingly and willfully executing or attempting  
4 to execute a scheme, in connection with the delivery of or payment  
5 for health care benefits, items, or services, that uses false or  
6 misleading pretenses, representations, or promises to obtain any  
7 money or property owned by or under the custody or control of any  
8 person.

9 (6) "Pharmacist" has the same meaning as in RCW 18.64.011.

10 (7) "Pharmacy" has the same meaning as in RCW 18.64.011.

11 (8) "Third-party payor" means a person licensed under RCW  
12 48.39.005.

13 **Sec. 5.** RCW 48.200.280 and 2020 c 240 s 15 are each amended to  
14 read as follows:

15 (1) The definitions in this subsection apply throughout this  
16 section unless the context clearly requires otherwise.

17 (a) "List" means the list of drugs for which (~~predetermined~~)  
18 reimbursement costs have been established(~~(, such as a maximum~~  
19 ~~allowable cost or maximum allowable cost list or any other benchmark~~  
20 ~~prices utilized by the pharmacy benefit manager and must include the~~  
21 ~~basis of the methodology and sources utilized)~~) to determine  
22 (~~multisource generic drug~~) reimbursement amounts.

23 (b) "Multiple source drug" means (~~a therapeutically equivalent~~  
24 ~~drug that is available from at least two manufacturers)~~ any covered  
25 outpatient prescription drug for which there is at least one other  
26 drug product that is rated as therapeutically equivalent under the  
27 food and drug administration's most recent publication of "Approved  
28 Drug Products with Therapeutic Equivalence Evaluations"; is  
29 pharmaceutically equivalent or bioequivalent, as determined by the  
30 food and drug administration; and is sold or marketed in the state.

31 (~~"Multisource generic drug" means any covered outpatient~~  
32 ~~prescription drug for which there is at least one other drug product~~  
33 ~~that is rated as therapeutically equivalent under the food and drug~~  
34 ~~administration's most recent publication of "Approved Drug Products~~  
35 ~~with Therapeutic Equivalence Evaluations;" is pharmaceutically~~  
36 ~~equivalent or bioequivalent, as determined by the food and drug~~  
37 ~~administration; and is sold or marketed in the state during the~~  
38 ~~period.~~

1       ~~(d)~~) "Network pharmacy" means a retail drug outlet licensed as a  
2 pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit  
3 manager.

4       ~~((e))~~ (d) "Therapeutically equivalent" has the same meaning as  
5 in RCW 69.41.110.

6       (2) A pharmacy benefit manager:

7       (a) May not place a drug on a list unless there are at least two  
8 therapeutically equivalent multiple source drugs, or at least one  
9 generic drug available from only one manufacturer, generally  
10 available for purchase by network pharmacies from national or  
11 regional wholesalers;

12       (b) Shall ensure that all drugs on a list are readily available  
13 for purchase by pharmacies in this state from national or regional  
14 wholesalers that serve pharmacies in Washington;

15       (c) Shall ensure that all drugs on a list are not obsolete;

16       (d) Shall make available to each network pharmacy at the  
17 beginning of the term of a contract, and upon renewal of a contract,  
18 the sources utilized to determine the ~~((predetermined))~~ reimbursement  
19 costs for ~~((multisource-generic))~~ multiple source drugs of the  
20 pharmacy benefit manager;

21       (e) Shall make a list available to a network pharmacy upon  
22 request in a format that is readily accessible to and usable by the  
23 network pharmacy;

24       (f) Shall update each list maintained by the pharmacy benefit  
25 manager every seven business days and make the updated lists,  
26 including all changes in the price of drugs, available to network  
27 pharmacies in a readily accessible and usable format;

28       (g) Shall ensure that dispensing fees are not included in the  
29 calculation of the ~~((predetermined))~~ reimbursement costs for  
30 ~~((multisource-generic))~~ multiple source drugs;

31       (h) May not cause or knowingly permit the use of any  
32 advertisement, promotion, solicitation, representation, proposal, or  
33 offer that is untrue, deceptive, or misleading;

34       (i) May not charge a pharmacy a fee related to the adjudication  
35 of a claim, credentialing, participation, certification,  
36 accreditation, or enrollment in a network including, but not limited  
37 to, a fee for the receipt and processing of a pharmacy claim, for the  
38 development or management of claims processing services in a pharmacy  
39 benefit manager network, or for participating in a pharmacy benefit  
40 manager network, and may not condition or link restrictions on fees

1 related to credentialing, participation, certification, or enrollment  
2 in a pharmacy benefit manager's pharmacy network with a pharmacy's  
3 inclusion in the pharmacy benefit manager's pharmacy network for  
4 other lines of business;

5 (j) May not require accreditation standards inconsistent with or  
6 more stringent than accreditation standards established by a national  
7 accreditation organization;

8 (k) May not reimburse a pharmacy in the state an amount less than  
9 the amount the pharmacy benefit manager reimburses an affiliate for  
10 providing the same pharmacy services; ~~((and))~~

11 (l) May not directly or indirectly retroactively deny or reduce a  
12 claim or aggregate of claims after the claim or aggregate of claims  
13 has been adjudicated, unless:

14 (i) The original claim was submitted fraudulently; or

15 (ii) The denial or reduction is the result of a pharmacy audit  
16 conducted in accordance with RCW 48.200.220; and

17 (m) May not exclude a pharmacy from their pharmacy network based  
18 solely on the pharmacy being newly opened or open less than a defined  
19 amount of time, or because a license or location transfer occurs,  
20 unless there is a pending investigation for fraud, waste, and abuse.

21 (3) A pharmacy benefit manager must establish a process by which  
22 a network pharmacy, or its representative, may appeal its  
23 reimbursement for a drug ~~((subject to predetermined reimbursement~~  
24 ~~costs for multisource generic drugs)).~~ A network pharmacy may appeal  
25 a ~~((predetermined reimbursement cost))~~ reimbursement amount paid by a  
26 pharmacy benefit manager for a ~~((multisource generic))~~ drug if the  
27 reimbursement for the drug is less than the net amount that the  
28 network pharmacy paid to the supplier of the drug. An appeal  
29 requested under this section must be completed within thirty calendar  
30 days of the pharmacy submitting the appeal. If after thirty days the  
31 network pharmacy has not received the decision on the appeal from the  
32 pharmacy benefit manager, then the appeal is considered denied.

33 The pharmacy benefit manager shall uphold the appeal of a  
34 pharmacy with fewer than fifteen retail outlets, within the state of  
35 Washington, under its corporate umbrella if the pharmacy or  
36 pharmacist can demonstrate that it is unable to purchase a  
37 therapeutically equivalent interchangeable product from a supplier  
38 doing business in Washington at the pharmacy benefit manager's list  
39 price.

1       (4) Before a pharmacy or pharmacist files an appeal pursuant to  
2 this section, upon request by a pharmacy or pharmacist, a pharmacy  
3 benefit manager must provide a current and accurate list of bank  
4 identification numbers, processor control numbers, and pharmacy group  
5 identifiers for health plans and self-funded group health plans that  
6 have opted in to sections 5, 7, and 8 of this act pursuant to section  
7 9 of this act with which the pharmacy benefit manager either has a  
8 current contract or had a contract that has been terminated within  
9 the past 12 months to provide pharmacy benefit management services.

10       (5) A pharmacy benefit manager must provide as part of the  
11 appeals process established under subsection (3) of this section:

12       (a) A telephone number at which a network pharmacy may contact  
13 the pharmacy benefit manager and speak with an individual who is  
14 responsible for processing appeals; and

15       (b) If the appeal is denied, the reason for the denial and the  
16 national drug code of a drug that has been purchased by other network  
17 pharmacies located in Washington at a price that is equal to or less  
18 than the ~~((predetermined))~~ reimbursement ~~((cost))~~ amount paid by the  
19 pharmacy benefit manager for the ~~((multisource-generie))~~ drug. A  
20 pharmacy with ~~((fifteen))~~ 15 or more retail outlets, within the state  
21 of Washington, under its corporate umbrella may submit information to  
22 the commissioner about an appeal under subsection (3) of this section  
23 for purposes of information collection and analysis.

24       ~~((+5))~~ (6) (a) If an appeal is upheld under this section, the  
25 pharmacy benefit manager shall make a reasonable adjustment on a date  
26 no later than one day after the date of determination.

27       (b) If the request for an adjustment has come from a critical  
28 access pharmacy, as defined by the state health care authority by  
29 rule for purposes related to the prescription drug purchasing  
30 consortium established under RCW 70.14.060, the adjustment approved  
31 under (a) of this subsection shall apply only to critical access  
32 pharmacies.

33       ~~((+6))~~ (7) Beginning July 1, 2017, if a network pharmacy appeal  
34 to the pharmacy benefit manager is denied, or if the network pharmacy  
35 is unsatisfied with the outcome of the appeal, the pharmacy or  
36 pharmacist may dispute the decision and request review by the  
37 commissioner within thirty calendar days of receiving the decision.

38       (a) All relevant information from the parties may be presented to  
39 the commissioner, and the commissioner may enter an order directing  
40 the pharmacy benefit manager to make an adjustment to the disputed

1 claim, deny the pharmacy appeal, or take other actions deemed fair  
2 and equitable. An appeal requested under this section must be  
3 completed within thirty calendar days of the request.

4 (b) Upon resolution of the dispute, the commissioner shall  
5 provide a copy of the decision to both parties within seven calendar  
6 days.

7 (c) The commissioner may authorize the office of administrative  
8 hearings, as provided in chapter 34.12 RCW, to conduct appeals under  
9 this subsection (~~((+6+))~~) (7).

10 (d) A pharmacy benefit manager may not retaliate against a  
11 pharmacy for pursuing an appeal under this subsection (~~((+6+))~~) (7).

12 (e) This subsection (~~((+6+))~~) (7) applies only to a pharmacy with  
13 fewer than fifteen retail outlets, within the state of Washington,  
14 under its corporate umbrella.

15 (~~((+7+))~~) (8) This section does not apply to the state medical  
16 assistance program.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.200  
18 RCW to read as follows:

19 Each health care benefit manager registered under this chapter  
20 shall appoint the insurance commissioner as its attorney to receive  
21 service of, and upon whom service must be served, all legal process  
22 issued against it in this state upon causes of action arising within  
23 this state. Service upon the commissioner as attorney constitutes  
24 service upon the health care benefit manager.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.200  
26 RCW to read as follows:

27 (1) A pharmacy benefit manager may not:

28 (a) Reimburse a network pharmacy an amount less than the contract  
29 price between the pharmacy benefit manager and the insurer, third-  
30 party payor, or the prescription drug purchasing consortium the  
31 pharmacy benefit manager has contracted with;

32 (b) Require a covered person to pay more at the point of sale for  
33 a covered prescription drug than is required under RCW 48.43.430; or

34 (c) Solicit, coerce, or incentivize a patient to use their owned  
35 or affiliated pharmacies.

36 (2) A pharmacy benefit manager shall:

37 (a) Apply the same cost-sharing amounts, fees, days allowance,  
38 and other conditions upon a covered person when the covered person

1 obtains a prescription drug from a pharmacy that is included in the  
2 pharmacy benefit manager's pharmacy network, including mail order  
3 pharmacies;

4 (b) Permit the covered person to receive delivery or mail order  
5 of a prescription drug through any network pharmacy that is not  
6 primarily engaged in dispensing prescription drugs to patients  
7 through the mail or common carrier; and

8 (c) For new prescriptions issued after the effective date of this  
9 section, receive affirmative authorization from a covered person  
10 before filling prescriptions through a mail order pharmacy.

11 (3) If a covered person is using a mail order pharmacy, the  
12 pharmacy benefit manager shall:

13 (a) Allow for dispensing at local network pharmacies under the  
14 following circumstances to ensure patient access to prescription  
15 drugs:

16 (i) If the prescription is delayed more than one day after the  
17 expected delivery date provided by the mail order pharmacy; or

18 (ii) If the prescription drug arrives in an unusable condition;  
19 and

20 (b) Ensure patients have easy and timely access to prescription  
21 counseling by a pharmacist.

22 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.200  
23 RCW to read as follows:

24 (1) A pharmacy benefit manager may not retaliate against a  
25 pharmacist or pharmacy for disclosing information in a court, in an  
26 administrative hearing, or legislative hearing, if the pharmacist or  
27 pharmacy has a good faith belief that the disclosed information is  
28 evidence of a violation of a state or federal law, rule, or  
29 regulation.

30 (2) A pharmacy benefit manager may not retaliate against a  
31 pharmacist or pharmacy for disclosing information to a government or  
32 law enforcement agency, if the pharmacist or pharmacy has a good  
33 faith belief that the disclosed information is evidence of a  
34 violation of a state or federal law, rule, or regulation.

35 (3) A pharmacist or pharmacy shall make reasonable efforts to  
36 limit the disclosure of confidential and proprietary information.

37 (4) Retaliatory actions against a pharmacy or pharmacist include  
38 cancellation of, restriction of, or refusal to renew or offer a  
39 contract to a pharmacy solely because the pharmacy or pharmacist has:

1 (a) Made disclosures of information that the pharmacist or  
2 pharmacy believes is evidence of a violation of a state or federal  
3 law, rule, or regulation;

4 (b) Filed complaints with the plan or pharmacy benefit manager;  
5 or

6 (c) Filed complaints against the plan or pharmacy benefit manager  
7 with the commissioner.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.200  
9 RCW to read as follows:

10 (1) Sections 5, 7, and 8 of this act apply to a pharmacy benefit  
11 manager's conduct pursuant to a contract with a self-funded group  
12 health plan governed by the provisions of the federal employee  
13 retirement income security act of 1974 (29 U.S.C. Sec. 1001 et seq.)  
14 only if the self-funded group health plan elects to participate in  
15 sections 5, 7, and 8 of this act. To elect to participate in these  
16 provisions, a self-funded group health plan or its administrator  
17 shall provide notice, on a periodic basis, to the commissioner in a  
18 manner and by a date prescribed by the commissioner, attesting to the  
19 plan's participation and agreeing to be bound by sections 5, 7, and 8  
20 of this act. A self-funded group health plan or its administrator  
21 that elects to participate under this section, and any pharmacy  
22 benefit manager it contracts with, shall comply with sections 5, 7,  
23 and 8 of this act.

24 (2) The commissioner does not have enforcement authority related  
25 to a pharmacy benefit manager's conduct pursuant to a contract with a  
26 self-funded group health plan governed by the federal employee  
27 retirement income security act of 1974, 29 U.S.C. Sec. 1001 et seq.,  
28 that elects to participate in sections 5, 7, and 8 of this act.

29 **Sec. 10.** RCW 41.05.017 and 2022 c 236 s 3, 2022 c 228 s 2, and  
30 2022 c 10 s 2 are each reenacted and amended to read as follows:

31 Each health plan that provides medical insurance offered under  
32 this chapter, including plans created by insuring entities, plans not  
33 subject to the provisions of Title 48 RCW, and plans created under  
34 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,  
35 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,  
36 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,  
37 48.43.780, 48.43.435, 48.43.815, and chapters 48.49 and 48.200 RCW.

1        NEW SECTION.    **Sec. 11.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 12.**    Sections 5 and 7 through 9 of this act  
6 take effect January 1, 2026."

**2SSB 5213 - S AMD 570**  
By Senator Kuderer

**ADOPTED AS AMENDED 02/12/2024**

7        On page 1, line 1 of the title, after "to" strike the remainder  
8 of the title and insert "health care benefit managers; amending RCW  
9 48.200.020, 48.200.030, 48.200.050, 48.200.210, and 48.200.280;  
10 reenacting and amending RCW 41.05.017; adding new sections to chapter  
11 48.200 RCW; and providing an effective date."

EFFECT: Moves new PBM regulations into the Health Care Benefit Manager (HCBM) chapter and makes several changes to those regulations, including: Removing the exception for specialty drugs from the requirement that PBMs receive affirmative authorization before filling prescriptions through a mail order pharmacy; removing the requirement that a person pay no more for a drug than the PBM reimburses the pharmacy, and instead limiting a person's cost to the lesser of the applicable cost sharing or the cash price; removing the prohibition related to "white bagging;" clarifying a retail pharmacy's ability to deliver drugs through the mail; removing the requirement that a PBM pay for patient specific assistive hardware; and clarifying when a person may receive a drug from a retail pharmacy after their mail order has not arrived. Modifies the definition of HCBM to exclude any entity that only performs provider credentialing. Clarifies the definition of mail order pharmacy. Requires HCBMs to provide proof of registration with the Secretary of State and appoint OIC to receive all legal process. Allows pharmacies to appeal reimbursement amounts for all drugs and requires PBMs to provide information identifying which health plan the claim is associated with before the appeal is filed, upon request by the pharmacy. Prohibits antiretaliatory actions by a PBM against a pharmacy or pharmacist. Clarifies that OIC may directly investigate complaints related to the conduct of a PBM, without requiring the complaint be pursued exclusively through the contracting carrier. Allows self-funded plans to opt in to all regulations in sections 5, 7, and 8 of this act. Clarifies that OIC does not have enforcement authority over a PBM's conduct related to a contract with a self-



funded plan. Applies the provisions of the HCBM chapter to PEBB and SEBB. Changes the title.

--- **END** ---