

FIRST REGULAR SESSION

# SENATE BILL NO. 299

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1061S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 354.535 and 376.386, RSMo, and to enact in lieu thereof two new sections relating to cost-sharing for prescription drugs.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 354.535 and 376.386, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 354.535 and 376.386, to read as follows:

354.535. 1. If a pharmacy, operated by or contracted  
2 with by a health maintenance organization, is closed or is  
3 unable to provide health care services to an enrollee in an  
4 emergency, a pharmacist may take an assignment of such  
5 enrollee's right to reimbursement, if the policy or contract  
6 provides for such reimbursement, for those goods or services  
7 provided to an enrollee of a health maintenance  
8 organization. No health maintenance organization shall  
9 refuse to pay the pharmacist any payment due the enrollee  
10 under the terms of the policy or contract.

11 2. No health maintenance organization, conducting  
12 business in the state of Missouri, shall contract with a  
13 pharmacy, pharmacy distributor or wholesale drug  
14 distributor, nonresident or otherwise, unless such pharmacy  
15 or distributor has been granted a permit or license from the  
16 Missouri board of pharmacy to operate in this state.

17 3. Every health maintenance organization shall apply  
18 the same coinsurance, co-payment and deductible factors to

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 all drug prescriptions filled by a pharmacy provider who  
20 participates in the health maintenance organization's  
21 network if the provider meets the contract's explicit  
22 product cost determination. If any such contract is  
23 rejected by any pharmacy provider, the health maintenance  
24 organization may offer other contracts necessary to comply  
25 with any network adequacy provisions of this act. However,  
26 nothing in this section shall be construed to prohibit the  
27 health maintenance organization from applying different  
28 coinsurance, co-payment and deductible factors between  
29 generic and brand name drugs.

30 **4. If the cost-sharing applied by a health maintenance**  
31 **organization exceeds the usual and customary retail price of**  
32 **the prescription drug, enrollees shall only be required to**  
33 **pay the usual and customary retail price of the prescription**  
34 **drug, and no further charge to the enrollee or plan sponsor**  
35 **shall be incurred on such prescription.**

36 **5.** Health maintenance organizations shall not set a  
37 limit on the quantity of drugs which an enrollee may obtain  
38 at any one time with a prescription, unless such limit is  
39 applied uniformly to all pharmacy providers in the health  
40 maintenance organization's network.

41 **[5.] 6.** Health maintenance organizations shall not  
42 insist or mandate any physician or other licensed health  
43 care practitioner to change an enrollee's maintenance drug  
44 unless the provider and enrollee agree to such change. For  
45 the purposes of this provision, a maintenance drug shall  
46 mean a drug prescribed by a practitioner who is licensed to  
47 prescribe drugs, used to treat a medical condition for a  
48 period greater than thirty days. Violations of this  
49 provision shall be subject to the penalties provided in  
50 section 354.444. Notwithstanding other provisions of law to

51 the contrary, health maintenance organizations that change  
52 an enrollee's maintenance drug without the consent of the  
53 provider and enrollee shall be liable for any damages  
54 resulting from such change. Nothing in this subsection,  
55 however, shall apply to the dispensing of generically  
56 equivalent products for prescribed brand name maintenance  
57 drugs as set forth in section 338.056.

376.386. **1.** For any health carrier or health benefit  
2 plan, as defined in section 376.1350, that provides  
3 prescription drug coverage, if a prescription drug covered  
4 by a health carrier or health benefit plan is prescribed in  
5 a single dosage amount for which the particular prescription  
6 drug is not manufactured in such single dosage amount and  
7 requires dispensing the particular prescription drug in a  
8 combination of different manufactured dosage amounts, the  
9 health carrier or health benefit plan shall only impose one  
10 co-payment for the dispensing of the combination of  
11 manufactured dosages that equal the prescribed dosage for  
12 such prescription drug. Such co-payment requirement shall  
13 not apply to prescriptions in excess of a one-month supply.  
14 If technology does not permit such adjudication, the health  
15 carrier or health benefit plan shall provide reimbursement  
16 forms for the patient.

17 **2. If the cost-sharing for prescription drugs applied**  
18 **by a health carrier, as defined in section 376.1350, exceeds**  
19 **the usual and customary retail price of the prescription**  
20 **drug, enrollees shall only be required to pay the usual and**  
21 **customary retail price of the prescription drug, and no**  
22 **further charge to the enrollee or plan sponsor shall be**  
23 **incurred on such prescription.**

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