



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1160/P1
JPC:cjs

DOA:.....Lessner, BB0193 - Pharmacy benefit manager fiduciary duty

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

INSURANCE

Fiduciary duty of pharmacy benefit managers

This bill imposes fiduciary and disclosure requirements on pharmacy benefit managers. Pharmacy benefit managers contract with health plans that provide prescription drug benefits to administer those benefits for the plans. They also have contracts with pharmacies and pay the pharmacies for providing the drugs to the plan beneficiaries.

The bill provides that a pharmacy benefit manager owes a fiduciary duty to a plan sponsor. The bill also requires that a pharmacy benefit manager annually disclose all of the following information to the plan sponsor:

1. The indirect profit received by the pharmacy benefit manager from owning a pharmacy or service provider.
2. Any payments made to a consultant or broker who works on behalf of the plan sponsor.
3. From the amounts received from drug manufacturers, the amounts retained by the pharmacy benefit manager that are related to the plan sponsor's claims or bona fide service fees.

4. The amounts received from network pharmacies and the amount retained by the pharmacy benefit manager.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 632.865 (2m) of the statutes is created to read:

632.865 (2m) FIDUCIARY DUTY AND DISCLOSURES TO HEALTH BENEFIT PLAN SPONSORS. (a) A pharmacy benefit manager owes a fiduciary duty to the health benefit plan sponsor to act according to the health benefit plan sponsor's instructions and in the best interests of the health benefit plan sponsor.

(b) A pharmacy benefit manager shall annually provide, no later than the date and using the method prescribed by the commissioner by rule, the health benefit plan sponsor all of the following information from the previous calendar year:

1. The indirect profit received by the pharmacy benefit manager from owning any interest in a pharmacy or service provider.

2. Any payment made by the pharmacy benefit manager to a consultant or broker who works on behalf of the health benefit plan sponsor.

3. From the amounts received from all drug manufacturers, the amounts retained by the pharmacy benefit manager, and not passed through to the health benefit plan sponsor, that are related to the health benefit plan sponsor's claims or bona fide service fees.

4. The amounts, including pharmacy access and audit recovery fees, received from all pharmacies that are in the pharmacy benefit manager's network or have a contract to be in the network and, from these amounts, the amount retained by the

pharmacy benefit manager and not passed through to the health benefit plan sponsor.

(END)