

2 State of Arkansas
3 94th General Assembly
4 Regular Session, 2023

A Bill

SENATE BILL 489

5
6 By: Senators C. Tucker, K. Hammer
7 By: Representative Achor

8 Filed with: Senate Committee on Insurance and Commerce
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO AMEND THE LAW CONCERNING MAXIMUM ALLOWABLE
12 COST LISTS; TO DEFINE A SIMILARLY SITUATED PHARMACY;
13 TO CLARIFY HOW A PHARMACY BENEFITS MANAGER PROVIDED
14 ITS MAXIMUM ALLOWABLE COST LIST TO A PHARMACY; TO
15 ESTABLISH A PRIVATE RIGHT OF ACTION FOR A PHARMACY OR
16 PHARMACIST REGARDING VIOLATIONS INVOLVING MAXIMUM
17 ALLOWABLE COST LISTS; AND FOR OTHER PURPOSES.

Subtitle

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21 TO AMEND THE LAW CONCERNING MAXIMUM
22 ALLOWABLE COST LISTS TO DEFINE A
23 SIMILARLY SITUATED PHARMACY, CLARIFY HOW
24 A PHARMACY BENEFITS MANAGER PROVIDED ITS
25 MAXIMUM ALLOWABLE COST LIST, AND
26 ESTABLISH A PRIVATE RIGHT OF ACTION.

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29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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31 SECTION 1. Arkansas Code § 17-92-507(a), concerning the definitions
32 regarding Maximum Allowable Cost Lists, is amended to add an additional
33 subdivision to read as follows:

34 (10) "Similarly situated pharmacy" means a pharmacy dispensing
35 the same prescription drug within ten (10) days of the dispensation of the
36 successful appealing pharmacy and that is provided a reimbursement by a

1 pharmacy benefits manager within five percent (5%) of the successful
2 appealing pharmacy.

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4 SECTION 2. Arkansas Code § 17-92-507(c)(1), concerning the
5 requirements on a pharmacy benefits manager regarding Maximum Allowable Cost
6 Lists, is amended to read as follows:

7 (1)(A) Provide access to its Maximum Allowable Cost List to each
8 pharmacy subject to the Maximum Allowable Cost List.

9 (B) The Maximum Allowable Cost List of the pharmacy
10 benefits manager shall be provided as a list or data set that allows a
11 pharmacy to observe and discern all drugs on the list or data set similar to
12 the national average drug acquisition cost list;

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14 SECTION 3. Arkansas Code § 17-92-507(c)(4)(C)(i)(d), concerning the
15 requirements on a pharmacy benefits manager regarding Maximum Allowable Cost
16 Lists, is amended to read as follows:

17 (d) Make the change under subdivision
18 (c)(4)(C)(i)(a) of this section effective for each similarly situated
19 pharmacy ~~as defined by the payor~~ subject to the Maximum Allowable Cost List;

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21 SECTION 4. Arkansas Code § 17-92-507(g), concerning the penalties for
22 violations related to Maximum Allowable Cost Lists, is amended to add an
23 additional subdivision to read as follows:

24 (3)(A) A pharmacy or pharmacist shall have a private right of
25 action to enforce violations of this section under the Deceptive Trade
26 Practices Act, § 4-88-101 et seq., the Arkansas Pharmacy Benefits Manager
27 Licensure Act, § 23-92-501 et seq., and the Trade Practices Act, § 23-66-201
28 et seq.

29 (B) The private right of action described under
30 subdivision (g)(3)(A) of this section shall not be extinguished or abridged
31 in any way, by contract or otherwise.

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34 Referred requested by the Arkansas Senate
35 Prepared by: JMB/SJA