



OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER

JOHN F. KING
COMMISSIONER OF INSURANCE
SAFETY FIRE COMMISSIONER
INDUSTRIAL LOAN COMMISSIONER

SEVENTH FLOOR, WEST TOWER
FLOYD BUILDING
2 MARTIN LUTHER KING, JR. DRIVE
ATLANTA, GA 30334
(404) 656-2056
www.oci.ga.gov

DIRECTIVE 20-EX-1

TO: ALL PHARMACY BENEFIT MANAGERS LICENSED IN THE STATE OF GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: JANUARY 9, 2020

RE: NEW GEORGIA LAWS PERTAINING TO PHARMACY BENEFIT MANAGERS EFFECTIVE JANUARY 1, 2020

Pursuant to OCGA § 33-64-11 (a) as of January 1, 2020, Pharmacy Benefits Manager are proscribed from:

- (1) Prohibiting a pharmacist, pharmacy, or other dispenser or dispenser practice from providing an insured individual information on the amount of the insured's cost share for such insured's prescription drug and the clinical efficacy of a more affordable alternative drug if one is available. No pharmacist, pharmacy, or other dispenser or dispenser practice shall be penalized by a pharmacy benefits manager for disclosing such information to an insured or for selling to an insured a more affordable alternative if one is available;
- (2) Prohibiting a pharmacist, pharmacy, or other dispenser or dispenser practice from offering and providing store direct delivery services to an insured as an ancillary service of the pharmacy or dispenser practice;
- (3) Charging or collecting from an insured a copayment that exceeds the total submitted charges by the network pharmacy or other dispenser practice for which the pharmacy or dispenser practice is paid;
- (4) Charging or holding a pharmacist or pharmacy or dispenser or dispenser practice responsible for a fee or penalty relating to the adjudication of a claim or an audit conducted pursuant to Code Section 26-4-118, provided that this shall not restrict recoupments made in accordance with Code Section 26-4-118 or pay for performance recoupments otherwise permitted by law;
- (5) Recouping funds from a pharmacy in connection with claims for which the pharmacy has already been paid without first complying with the requirements set forth in Code Section 26-4-118, unless such recoupment is otherwise permitted or required by law;

(6) Penalizing or retaliating against a pharmacist or pharmacy for exercising rights under this chapter or Code Section 26-4-118;

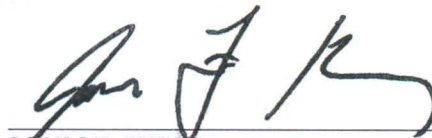
(7) Ordering an insured for the filling of a prescription or the provision of pharmacy care services to an affiliated pharmacy; offering or implementing plan designs that require patients to utilize an affiliated pharmacy; or advertising, marketing, or promoting a pharmacy by an affiliate to patients or prospective patients. Subject to the foregoing, a pharmacy benefits manager may include an affiliated pharmacy in communications to patients, including patient and prospective patient specific communications, regarding network pharmacies and prices, provided that the pharmacy benefits manager includes information regarding eligible nonaffiliated pharmacies in such communications and the information provided is accurate. This paragraph shall not be construed to prohibit a pharmacy benefits manager from entering into an agreement with an affiliated pharmacy to provide pharmacy care to patients. The restrictions in this paragraph shall not apply to limited distribution prescription drugs requiring special handling and not commonly carried at retail pharmacies or oncology clinics or practices;

(8) Transferring or sharing records relative to prescription information containing patient-identifiable and prescriber-identifiable data to an affiliated pharmacy for any commercial purpose; provided, however, that nothing shall be construed to prohibit the exchange of prescription information between a pharmacy benefits manager and an affiliated pharmacy for the limited purposes of pharmacy reimbursement, formulary compliance, pharmacy care, or utilization review;

(9) Knowingly making a misrepresentation to an insured, pharmacist, pharmacy, dispenser, or dispenser practice;

(10) Taking any action in violation of subparagraphs (a)(21)(D) and (a)(21)(E) of Code Section 26-4-28.

All Pharmacy Benefit Managers operating in the State of Georgia are advised that violations of OCGA § 33-64-11 (a) may result in the Commissioner placing any pharmacy benefits manager on probation for a period of time not to exceed one year for each and every act in violation of OCGA § 33-64-11 (a) and may subject such pharmacy benefits manager to a monetary penalty of up to \$1,000.00 for each and every act in violation of OCGA § 33-64-11 (a), unless the pharmacy benefits manager knew or reasonably should have known he or she was in violation of OCGA § 33-64-11 (a), in which case the monetary penalty may be increased to an amount of up to \$5,000.00 for each and every act in violation. See OCGA § 33-64-2 (k)



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STATE OF GEORGIA