

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1925 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Ryan Martinez \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1925

By: Martinez

7 PROPOSED COMMITTEE SUBSTITUTE

8  
9 An Act relating to pharmacies; amending Section 4,  
10 Chapter 426, O.S.L. 2019 (36 O.S. Supp. 2020, Section  
11 6961), which relates to retail pharmacy network  
12 access standards; allowing mail-order pharmacies to  
13 be used to meet certain standards; providing  
14 exception if certain entities require use of mail-  
15 order pharmacies as a condition of certain coverage;  
16 amending Section 5, Chapter 426, O.S.L. 2019 (36 O.S.  
17 Supp. 2020, Section 6962), which relates to  
18 compliance review; providing exception if certain  
19 entities require use of mail-order pharmacies as a  
20 condition of certain coverage; amending Section 6,  
21 Chapter 426, O.S.L. 2019 (36 O.S. Supp. 2020, Section  
22 6963), which relates to health insurers' duty to  
23 monitor certain activities and ensure compliance;  
24 providing exception if certain entities require use  
of mail-order pharmacies as a condition of certain  
coverage; allowing certain entities to enact certain  
requirements or incentives; repealing 36 O.S. 2011,  
Section 4511, which relates to employer health care  
programs; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 4, Chapter 426, O.S.L.  
2019 (36 O.S. Supp. 2020, Section 6961), is amended to read as  
follows:

1 Section 6961. A. Pharmacy benefits managers (PBMs) shall  
2 comply with the following retail pharmacy network access standards:

3 1. At least ninety percent (90%) of covered individuals  
4 residing in an urban service area live within two (2) miles of a  
5 retail pharmacy participating in the PBM's retail pharmacy network;

6 2. At least ninety percent (90%) of covered individuals  
7 residing in an urban service area live within five (5) miles of a  
8 retail pharmacy designated as a preferred participating pharmacy in  
9 the PBM's retail pharmacy network;

10 3. At least ninety percent (90%) of covered individuals  
11 residing in a suburban service area live within five (5) miles of a  
12 retail pharmacy participating in the PBM's retail pharmacy network;

13 4. At least ninety percent (90%) of covered individuals  
14 residing in a suburban service area live within seven (7) miles of a  
15 retail pharmacy designated as a preferred participating pharmacy in  
16 the PBM's retail pharmacy network;

17 5. At least seventy percent (70%) of covered individuals  
18 residing in a rural service area live within fifteen (15) miles of a  
19 retail pharmacy participating in the PBM's retail pharmacy network;  
20 and

21 6. At least seventy percent (70%) of covered individuals  
22 residing in a rural service area live within eighteen (18) miles of  
23 a retail pharmacy designated as a preferred participating pharmacy  
24 in the PBM's retail pharmacy network.

1       B. ~~Mail-order pharmacies shall not be used to meet access~~  
2 ~~standards for retail pharmacy networks.~~

3       ~~C.~~ Pharmacy benefits managers shall not require patients to use  
4 pharmacies that are directly or indirectly owned by the pharmacy  
5 benefits manager, including all regular prescriptions, refills or  
6 specialty drugs regardless of day supply unless a managed care  
7 company, insurance company, third-party payor, or a health program  
8 administered by any department of the state contractually requires  
9 the use of a mail-order pharmacy as a condition of prescription drug  
10 coverage.

11       ~~D.~~ C. Pharmacy benefits managers shall not in any manner on any  
12 material, including but not limited to mail and ID cards, include  
13 the name of any pharmacy, hospital or other providers unless it  
14 specifically lists all pharmacies, hospitals and providers  
15 participating in the preferred and nonpreferred pharmacy and health  
16 networks unless a managed care company, insurance company, third-  
17 party payor, or a health program administered by any department of  
18 the state contractually requires the use of a mail-order pharmacy as  
19 a condition of prescription drug coverage.

20       SECTION 2.       AMENDATORY       Section 5, Chapter 426, O.S.L.  
21 2019 (36 O.S. Supp. 2020, Section 6962), is amended to read as  
22 follows:

23       Section 6962. A. The Oklahoma Insurance Department shall  
24 review and approve retail pharmacy network access for all pharmacy

1 benefits managers (PBMs) to ensure compliance with Section 4 6961 of  
2 this ~~act~~ title.

3 B. A PBM, or an agent of a PBM, shall not:

4 1. Cause or knowingly permit the use of advertisement,  
5 promotion, solicitation, representation, proposal or offer that is  
6 untrue, deceptive or misleading;

7 2. Charge a pharmacist or pharmacy a fee related to the  
8 adjudication of a claim, including without limitation a fee for:

9 a. the submission of a claim,

10 b. enrollment or participation in a retail pharmacy  
11 network, or

12 c. the development or management of claims processing  
13 services or claims payment services related to  
14 participation in a retail pharmacy network;

15 3. Reimburse a pharmacy or pharmacist in the state an amount  
16 less than the amount that the PBM reimburses a pharmacy owned by or  
17 under common ownership with a PBM for providing the same covered  
18 services unless a managed care company, insurance company, third-  
19 party payor, or a health program administered by any department of  
20 the state contractually requires the use of a mail-order pharmacy as  
21 a condition of prescription drug coverage. The reimbursement amount  
22 paid to the pharmacy shall be equal to the reimbursement amount  
23 calculated on a per-unit basis using the same generic product  
24

1 identifier or generic code number paid to the PBM-owned or PBM-  
2 affiliated pharmacy;

3 4. Deny a pharmacy the opportunity to participate in any  
4 pharmacy network at preferred participation status if the pharmacy  
5 is willing to accept the terms and conditions that the PBM has  
6 established for other pharmacies as a condition of preferred network  
7 participation status unless a managed care company, insurance  
8 company, third-party payor, or a health program administered by any  
9 department of the state contractually requires the use of a mail-  
10 order pharmacy as a condition of prescription drug coverage;

11 5. Deny, limit or terminate a pharmacy's contract based on  
12 employment status of any employee who has an active license to  
13 dispense, despite probation status, with the State Board of  
14 Pharmacy;

15 6. Retroactively deny or reduce reimbursement for a covered  
16 service claim after returning a paid claim response as part of the  
17 adjudication of the claim, unless:

- 18 a. the original claim was submitted fraudulently, or  
19 b. to correct errors identified in an audit, so long as  
20 the audit was conducted in compliance with Sections  
21 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;  
22 or

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24

1           7. Fail to make any payment due to a pharmacy or pharmacist for  
2 covered services properly rendered in the event a PBM terminates a  
3 pharmacy or pharmacist from a pharmacy benefits manager network.

4           C. The prohibitions under this section shall apply to contracts  
5 between pharmacy benefits managers and pharmacists or pharmacies for  
6 participation in retail pharmacy networks.

7           1. A PBM contract shall:

8           a. not restrict, directly or indirectly, any pharmacy  
9 that dispenses a prescription drug from informing, or  
10 penalize such pharmacy for informing, an individual of  
11 any differential between the individual's out-of-  
12 pocket cost or coverage with respect to acquisition of  
13 the drug and the amount an individual would pay to  
14 purchase the drug directly, and

15           b. ensure that any entity that provides pharmacy benefits  
16 management services under a contract with any such  
17 health plan or health insurance coverage does not,  
18 with respect to such plan or coverage, restrict,  
19 directly or indirectly, a pharmacy that dispenses a  
20 prescription drug from informing, or penalize such  
21 pharmacy for informing, a covered individual of any  
22 differential between the individual's out-of-pocket  
23 cost under the plan or coverage with respect to  
24 acquisition of the drug and the amount an individual

1           would pay for acquisition of the drug without using  
2           any health plan or health insurance coverage.

3           2. A pharmacy benefits manager's contract with a participating  
4 pharmacist or pharmacy shall not prohibit, restrict or limit  
5 disclosure of information to the Insurance Commissioner, law  
6 enforcement or state and federal governmental officials  
7 investigating or examining a complaint or conducting a review of a  
8 pharmacy benefits manager's compliance with the requirements under  
9 the Patient's Right to Pharmacy Choice Act.

10          3. A pharmacy benefits manager shall establish and maintain an  
11 electronic claim inquiry processing system using the National  
12 Council for Prescription Drug Programs' current standards to  
13 communicate information to pharmacies submitting claim inquiries.

14          SECTION 3.        AMENDATORY        Section 6, Chapter 426, O.S.L.  
15 2019 (36 O.S. Supp. 2020, Section 6963), is amended to read as  
16 follows:

17          Section 6963. A. A health insurer shall be responsible for  
18 monitoring all activities carried out by, or on behalf of, the  
19 health insurer under the Patient's Right to Pharmacy Choice Act, and  
20 for ensuring that all requirements of this act are met.

21          B. Whenever a health insurer contracts with another person to  
22 perform activities required under this act, the health insurer shall  
23 be responsible for monitoring the activities of that person with  
24



1 whom the health insurer contracts and for ensuring that the  
2 requirements of this act are met.

3 C. An individual may be notified at the point of sale when the  
4 cash price for the purchase of a prescription drug is less than the  
5 individual's copayment or coinsurance price for the purchase of the  
6 same prescription drug.

7 D. A health insurer or pharmacy benefits manager (PBM) shall  
8 not restrict an individual's choice of in-network provider for  
9 prescription drugs unless a managed care company, insurance company,  
10 third-party payor, or a health program administered by any  
11 department of the state contractually requires the use of a mail-  
12 order pharmacy as a condition of prescription drug coverage.

13 E. An individual's choice of in-network provider may include a  
14 retail pharmacy or a mail-order pharmacy. A health insurer or PBM  
15 shall not restrict such choice unless a managed care company,  
16 insurance company, third-party payor, or a health program  
17 administered by any department of the state contractually requires  
18 the use of a mail-order pharmacy as a condition of prescription drug  
19 coverage. ~~Such health insurer or PBM shall not require or~~  
20 ~~incentivize using any discounts in cost-sharing or a reduction in~~  
21 ~~copay or the number of copays to individuals to receive prescription~~  
22 ~~drugs from an individual's choice of in-network pharmacy.~~

23 F. A health insurer, pharmacy or PBM shall adhere to all  
24 Oklahoma laws, statutes and rules when mailing, shipping and/or

1 causing to be mailed or shipped prescription drugs into the State of  
2 Oklahoma.

3 SECTION 4. REPEALER 36 O.S. 2011, Section 4511, is  
4 hereby repealed.

5 SECTION 5. This act shall become effective November 1, 2021.

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7 58-1-7315 AB 02/01/21

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