

SUBJECT: Fees charged by pharmacy benefit managers for adjudication of claims

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Frullo, Muñoz, G. Bonnen, Guerra, Meyer, Paul, Sheets, Vo, Workman

0 nays

WITNESSES: For — Rene Garza, Alliance of Independent Pharmacists and Texas Pharmacy Association and Texas Pharmacy Business; Kenneth Cattles, Texas Independent Pharmacies Association; Miguel Rodriguez and Daniel Vela, Texas Pharmacy Business Council; (*Registered, but did not testify:* Audra Conwell, Alliance of Independent Pharmacists of Texas; Dennis Wiesner, HEB; Neftali Partida, Houston Methodist Hospital System; Survam Patel, Southside Pharmacy; Bradford Shields, Texas Federation of Drug Stores; J.D. Fain, Duane Galligher, Tammy Gray, and Edgar Walsh, Texas Independent Pharmacies Association; Justin Hudman, Texas Pharmacy Association; Amanda Fields and Bill Moore, Texas Pharmacy Business Council; John Heal, Texas TrueCare Pharmacies; Morris Wilkes, United Supermarkets; Karen Reagan, Walgreen Company; Nathan Rawls)

Against — Allen Horne; (*Registered, but did not testify:* Wendy Wilson, CompPharma; Juliana Kerker, Express Scripts)

On — Debra Diaz-Lara, Texas Department of Insurance

BACKGROUND: Insurance Code, sec. 4151.151 defines a “pharmacy benefit manager” to mean a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. Pharmacy benefit managers can contract with health insurance plans and pharmacies to process prescription drug claims on behalf of a health insurance plan.

Insurance Code, sec. 1213.005 prohibits a health insurance plan from directly or indirectly charging or holding a health care professional, health care facility, or person enrolled in a health insurance plan responsible for a

fee for the adjudication of a health care claim.

DIGEST:

HB 255 would prohibit a health insurance plan issuer or a pharmacy benefit manager from directly or indirectly charging or holding a pharmacist or pharmacy responsible for a fee for any step of or component or mechanism related to the claim adjudication process, including:

- the adjudication of a pharmacy benefit claim;
- the processing or transmission of a pharmacy benefit claim;
- the development or management of a claim processing or adjudication network; or
- participation in a claim processing or adjudication network.

The bill would take effect September 1, 2015. The bill's provisions would not affect the terms of a contract entered into or renewed before September 1, 2015, until a renewal of the contract that occurs on or after that date.

**SUPPORTERS
SAY:**

HB 255 would bring pharmacy benefit managers in line with existing statutes prohibiting health insurance plans from charging a fee for the adjudication of a health care claim. Since 2005, Insurance Code, sec. 1213.005 has prohibited a health insurance plan from charging such a fee, yet pharmacy benefit managers processing prescription drug claims on the behalf of health insurance plans continue to charge pharmacies, particularly independent pharmacies, an extra "transaction" or "transmission" fee on top of their regular fee for processing a prescription drug claim.

These fees are usually small and hidden under different names in pharmacy benefit managers' contracts with pharmacies, but can add up, costing independent pharmacies sometimes hundreds of thousands of dollars per year. These fees are unnecessary and should not be included in pharmacy benefit manager's contracts with pharmacies because they are technically prohibited under existing state law governing health insurance plans.

Comprehensive language in the bill is necessary to make clear in statute that pharmacy benefit managers cannot charge a fee related to the claim adjudication process, regardless of the terminology used to justify the fee.

OPPONENTS
SAY:

Pharmacy benefit managers already have agreed to stop charging fees for the adjudication of a pharmacy benefit claim related to the processing or transmission of a pharmacy benefit, but the bill's remaining prohibitions related to development of and participation in a claim processing network are too broad. Pharmacy benefit managers need to charge fees for pharmacy credentialing and other legitimate business expenses that are technically related to the adjudication of prescription drug claims. The bill could prohibit pharmacy benefit managers from charging these necessary fees.