



General Assembly

January Session, 2025

Raised Bill No. 1366

LCO No. 4380



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING PHARMACY BENEFITS MANAGERS AND
PRESCRIPTION DRUG REBATE REPORTING REQUIREMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-477cc of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2026*):

3 (a) No contract for pharmacy services entered into in the state
4 between a health carrier, as defined in section 38a-591a, or pharmacy
5 benefits manager, as defined in section 38a-479aaa, and a pharmacy or
6 pharmacist shall:

7 (1) On and after January 1, 2018, contain a provision prohibiting or
8 penalizing, including through increased utilization review, reduced
9 payments or other financial disincentives, a pharmacist's disclosure to
10 an individual purchasing prescription medication of information
11 regarding:

12 (A) The cost of the prescription medication to the individual; or

13 (B) The availability of any therapeutically equivalent alternative

14 medications or alternative methods of purchasing the prescription
15 medication, including, but not limited to, paying a cash price, that are
16 less expensive than the cost of the prescription medication to the
17 individual; [and]

18 (2) On and after January 1, 2020, contain a provision permitting the
19 health carrier or pharmacy benefits manager to recoup, directly or
20 indirectly, from a pharmacy or pharmacist any portion of a claim that
21 such health carrier or pharmacy benefits manager has paid to the
22 pharmacy or pharmacist, unless such recoupment is permitted under
23 section 38a-479iii or required by applicable law;

24 (3) On and after January 1, 2026, contain a provision permitting the
25 pharmacy benefits manager to charge a health benefit plan in this state
26 a contracted price for any pharmacy services that differs from the
27 amount such pharmacy benefits manager, directly or indirectly, pays
28 the pharmacy for such pharmacy services; and

29 (4) On and after January 1, 2026, contain a provision permitting the
30 pharmacy benefits manager to charge a health benefit plan, directly or
31 indirectly, a fee that is conditioned on the (A) wholesale acquisition cost
32 or any other price metric for a prescription drug, (B) amount of savings,
33 rebates or other fees charged, realized, collected by or generated based
34 on the business practices of such pharmacy benefits manager, or (C)
35 amount of premiums charged or cost-sharing requirements pursuant to
36 such health benefit plan that are realized or collected by such pharmacy
37 benefits manager from covered persons. For the purposes of this
38 subdivision, "wholesale acquisition cost" means the price of a
39 medication set by a pharmaceutical manufacturer in the United States
40 when selling to a wholesaler.

41 (b) (1) On and after January 1, 2018, no health carrier or pharmacy
42 benefits manager shall require an individual to make a payment at the
43 point of sale for a covered prescription medication in an amount greater
44 than the lesser of:

- 45 (A) The applicable copayment for such prescription medication;
- 46 (B) The allowable claim amount for the prescription medication; or
- 47 (C) The amount an individual would pay for the prescription
- 48 medication if the individual purchased the prescription medication
- 49 without using a health benefit plan, as defined in section 38a-591a, or
- 50 any other source of prescription medication benefits or discounts.

51 (2) For the purposes of this subsection, "allowable claim amount"

52 means the amount the health carrier or pharmacy benefits manager has

53 agreed to pay the pharmacy for the prescription medication.

54 (c) Any provision of a contract that violates the provisions of this

55 section shall be void and unenforceable. Any general business practice

56 that violates the provisions of this section shall constitute an unfair trade

57 practice pursuant to chapter 735a. The invalidity or unenforceability of

58 any contract provision under this subsection shall not affect any other

59 provision of the contract.

60 (d) The Insurance Commissioner may:

61 (1) Enforce the provisions of this section pursuant to chapter 697; and

62 (2) Upon request, audit a contract for pharmacy services for

63 compliance with the provisions of this section.

64 Sec. 2. (NEW) (*Effective October 1, 2025*) (a) Any pharmacy benefits

65 manager shall owe a fiduciary duty to any (1) health carrier, as defined

66 in section 38a-591a of the general statutes, or other health benefit plan

67 sponsor, including, but not limited to, any third-party administrator, (2)

68 pharmacy licensed pursuant to chapter 400j of the general statutes, and

69 (3) covered person under any such health benefit plan and shall

70 discharge such duty in accordance with the laws of this state and federal

71 law, as applicable.

72 (b) Any pharmacy benefits manager shall notify the health carrier or

73 other health benefit plan sponsor, in writing, of any activity, policy or
74 practice of such pharmacy benefits manager that directly or indirectly
75 presents any conflict of interest with the duties imposed by this section.
76 In the event of such conflict, such pharmacy benefits manager's duties
77 owed to covered persons under any health benefit plan shall be primary
78 to such duties owed to such health carrier, health benefit plan sponsor
79 or pharmacy.

80 (c) Any pharmacy benefits manager shall have an obligation of good
81 faith and fair dealing in performing such pharmacy benefits manager's
82 duties with all parties, including, but not limited to, covered persons
83 under any health benefit plan and pharmacies with whom such
84 pharmacy benefits manager interacts in the performance of pharmacy
85 benefit management services.

86 (d) Notwithstanding any provision of title 38a of the general statutes
87 and to the maximum extent permitted by applicable law, no contract
88 entered into or amended by a health carrier shall contain any provision
89 that permits or requires any party to such contract to violate the
90 fiduciary duty that such health carrier owes to such health carrier's
91 covered persons.

92 (e) Any violation of the provisions of this section shall constitute an
93 unfair trade practice pursuant to chapter 735a of the general statutes.

94 (f) The Insurance Commissioner may adopt regulations, in
95 accordance with the provisions of chapter 54 of the general statutes, to
96 implement the provisions of this section.

97 Sec. 3. Section 38a-479ttt of the general statutes is repealed and the
98 following is substituted in lieu thereof (*Effective October 1, 2025*):

99 Not later than March 1, 2021, and annually thereafter, the
100 commissioner shall prepare a report, for the immediately preceding
101 calendar year, describing the rebate practices of health carriers. The
102 report shall contain (1) an explanation of the manner in which health

103 carriers accounted for rebates in calculating premiums for health care
 104 plans delivered, issued for delivery, renewed, amended or continued
 105 during such year, (2) a statement disclosing whether, and describing the
 106 manner in which, health carriers made rebates available to insureds at
 107 the point of purchase during such year, (3) any other manner in which
 108 health carriers applied rebates during such year, (4) the percentage of
 109 rebate dollars used by health carriers to reduce cost-sharing
 110 requirements during such year, (5) an evaluation of rebate practices to
 111 reduce cost-sharing for health care plans delivered, issued for delivery,
 112 renewed, amended or continued during such year, and [(4)] (6) such
 113 other information as the commissioner, in the commissioner's
 114 discretion, deems relevant for the purposes of this section. The
 115 commissioner shall publish a copy of the report on the department's
 116 Internet web site.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2026</i>	38a-477cc
Sec. 2	<i>October 1, 2025</i>	New section
Sec. 3	<i>October 1, 2025</i>	38a-479ttt

Statement of Purpose:

To: (1) Prohibit certain provisions in pharmacy services contracts between pharmacy benefits managers and health carriers; (2) establish a duty of care for pharmacy benefits managers in this state; and (3) impose additional reporting requirements on the Insurance Department concerning prescription drug rebates.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]