

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 489

By: Senators C. Tucker, K. Hammer

By: Representative Achor

For An Act To Be Entitled

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

Subtitle

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

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

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

(10) "Similarly situated pharmacy" means a pharmacy dispensing the same prescription drug within ten (10) days of the dispensation of the successful appealing pharmacy and that is provided a reimbursement by a pharmacy benefits manager within five percent (5%) of the successful appealing pharmacy.



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

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

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

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

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

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

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

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