

PROPOSED
SENATE AMENDMENTS TO S.B. 1164
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 20, chapter 25, article 2, Arizona Revised
3 Statutes, is amended by adding section 20-3335, to read:

4 20-3335. Pharmacy benefit managers; prescribing; coverage
5 exemption determination process; enforcement;
6 applicability; definitions

7 A. IF A PHARMACY BENEFIT MANAGER ENTERS INTO AN AGREEMENT WITH A
8 HEALTH CARE INSURER TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES TO
9 COVERED INDIVIDUALS, THE PHARMACY BENEFIT MANAGER, ON BEHALF OF THE
10 PHARMACY BENEFIT MANAGER OR A HEALTH CARE INSURER:

11 1. MAY NOT LIMIT OR EXCLUDE COVERAGE OF A PRESCRIPTION DRUG FOR ANY
12 COVERED INDIVIDUAL WHO IS ON A SPECIFIC PRESCRIPTION DRUG IF BOTH OF THE
13 FOLLOWING APPLY:

14 (a) THE PRESCRIPTION DRUG WAS PREVIOUSLY APPROVED BY THE PHARMACY
15 BENEFIT MANAGER OR HEALTH CARE INSURER FOR COVERAGE FOR THE COVERED
16 INDIVIDUAL.

17 (b) THE COVERED INDIVIDUAL CONTINUES TO BE AN ENROLLEE OF THE HEALTH
18 CARE INSURER THAT THE PHARMACY BENEFIT MANAGER HAS CONTRACTED WITH TO
19 PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES.

20 2. IF PARAGRAPH 1 OF THIS SUBSECTION APPLIES, SHALL CONTINUE
21 COVERAGE OF A COVERED INDIVIDUAL'S SPECIFIC PRESCRIPTION DRUG THROUGH THE
22 LAST DAY OF THE COVERED INDIVIDUAL'S PLAN YEAR.

23 B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, A PHARMACY
24 BENEFIT MANAGER, ON BEHALF OF THE PHARMACY BENEFIT MANAGER OR A HEALTH CARE

1 INSURER, MAY NOT DO ANY OF THE FOLLOWING FOR A COVERED INDIVIDUAL
2 IDENTIFIED UNDER SUBSECTION A OF THIS SECTION:

3 1. LIMIT OR REDUCE THE MAXIMUM COVERAGE OF PRESCRIPTION DRUG
4 BENEFITS.

5 2. INCREASE COST SHARING FOR A COVERED PRESCRIPTION DRUG.

6 3. MOVE A PRESCRIPTION DRUG TO A MORE RESTRICTIVE FORMULARY TIER.

7 4. REMOVE A PRESCRIPTION DRUG FROM A FORMULARY UNLESS EITHER OF THE
8 FOLLOWING APPLIES:

9 (a) THE UNITED STATES FOOD AND DRUG ADMINISTRATION REVOKES APPROVAL
10 FOR OR REMOVES A PRESCRIPTION DRUG FROM THE PRESCRIPTION DRUG MARKET.

11 (b) THE PRESCRIPTION DRUG MANUFACTURER NOTIFIES THE UNITED STATES
12 FOOD AND DRUG ADMINISTRATION OF A MANUFACTURING DISCONTINUATION OR A
13 POTENTIAL DISCONTINUATION AS REQUIRED BY SECTION 506C OF THE FEDERAL FOOD,
14 DRUG, AND COSMETIC ACT.

15 C. IF A PHARMACY BENEFIT MANAGER OR HEALTH CARE INSURER MAKES ANY
16 FORMULARY CHANGE DURING A PLAN YEAR, THE PHARMACY BENEFIT MANAGER OR HEALTH
17 CARE INSURER SHALL PROVIDE WRITTEN NOTICE OF THE FORMULARY CHANGE FOR ANY
18 PRESCRIPTION DRUG ON THE DRUG FORMULARY TO EACH IMPACTED COVERED INDIVIDUAL
19 AND THE IMPACTED COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE PROVIDER AT
20 LEAST SIXTY DAYS BEFORE THE FORMULARY CHANGE DURING THE PLAN YEAR. THE
21 PHARMACY BENEFIT MANAGER OR HEALTH CARE INSURER MAY ONLY CHANGE A COVERED
22 INDIVIDUAL FROM THE PREVIOUSLY COVERED PRESCRIPTION DRUG IF THE COVERED
23 INDIVIDUAL'S PRESCRIBING HEALTH CARE PROVIDER PROVIDES WRITTEN
24 AUTHORIZATION TO THE PHARMACY BENEFIT MANAGER OR HEALTH CARE INSURER FOR
25 THE CHANGE IN THE PRESCRIPTION DRUG.

26 D. A PHARMACY BENEFIT MANAGER OR HEALTH CARE INSURER SHALL PROVIDE
27 WRITTEN NOTICE OF THE REMOVAL FROM OR AN INCREASE IN COST SHARING FOR ANY
28 PRESCRIPTION DRUG ON THE DRUG FORMULARY TO EACH IMPACTED COVERED INDIVIDUAL
29 AND THE IMPACTED COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE PROVIDER AT
30 LEAST SIXTY DAYS BEFORE THE END OF THE PLAN YEAR, IF THE COVERED
31 INDIVIDUAL'S PRESCRIBING HEALTH CARE PROVIDER DID NOT PREVIOUSLY APPROVE A
32 CHANGE IN THE PRESCRIPTION DRUG. THE NOTICE SHALL SET FORTH THE PROCESS BY

1 WHICH THE COVERED INDIVIDUAL'S HEALTH CARE PROVIDER MAY REQUEST A
2 PRESCRIPTION DRUG COVERAGE EXEMPTION FOR THE CONTINUED USE OF THE
3 NONFORMULARY PRESCRIPTION DRUG AND THE EXEMPTION PROCESS SHALL COMPLY WITH
4 SUBSECTION E OF THIS SECTION.

5 E. A PRESCRIPTION DRUG COVERAGE EXEMPTION DETERMINATION PROCESS IS
6 AVAILABLE TO COVERED INDIVIDUALS AND THE PRESCRIBING HEALTH CARE PROVIDER
7 TO ENSURE CONTINUITY OF CARE AFTER A COVERED INDIVIDUAL'S RENEWAL IN THE
8 FOLLOWING MANNER:

9 1. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
10 REVIEW AGENT THAT IS CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT
11 SERVICES FOR THE HEALTH CARE INSURER SHALL PROVIDE A COVERED INDIVIDUAL AND
12 PRESCRIBING HEALTH CARE PROVIDER WITH ACCESS TO A CLEAR AND CONVENIENT
13 PROCESS TO REQUEST A COVERAGE EXEMPTION DETERMINATION. THE HEALTH CARE
14 INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION REVIEW AGENT MAY USE ITS
15 EXISTING MEDICAL EXCEPTIONS PROCESS TO SATISFY THIS REQUIREMENT IF THE
16 MEDICAL EXCEPTIONS PROCESS IS CONSISTENT WITH THE REQUIREMENTS PRESCRIBED
17 IN THIS SECTION.

18 2. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
19 REVIEW AGENT SHALL RESPOND TO A COVERAGE EXEMPTION DETERMINATION REQUEST
20 WITHIN THE TIMELINES OUTLINED IN 45 CODE OF FEDERAL REGULATIONS SECTION
21 156.122.

22 3. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
23 REVIEW AGENT SHALL APPROVE A PRESCRIPTION DRUG COVERAGE EXEMPTION FOR A
24 COVERED INDIVIDUAL WHO HAS BEEN PREVIOUSLY APPROVED TO RECEIVE THE
25 NONFORMULARY PRESCRIPTION DRUG BY THE COVERED INDIVIDUAL'S CURRENT HEALTH
26 CARE INSURER OR PHARMACY BENEFIT MANAGER AND THE PRESCRIBING HEALTH CARE
27 PROVIDER CONTINUES TO PRESCRIBE THE PRESCRIPTION DRUG FOR THE COVERED
28 INDIVIDUAL'S MEDICAL CONDITION.

29 4. DENIAL OF COVERAGE FOR A HEALTH CARE INSURER'S OR PHARMACY
30 BENEFIT MANAGER'S DENIAL OF COVERAGE FOR A NONFORMULARY PRESCRIPTION DRUG
31 SHALL BE MADE IN WRITING BY A LICENSED PHARMACIST OR MEDICAL DIRECTOR. THE
32 WRITTEN DENIAL SHALL CONTAIN AN EXPLANATION OF THE DENIAL THAT INCLUDES THE

1 MEDICAL OR PHARMACOLOGICAL REASONS WHY THE AUTHORIZATION WAS DENIED AND A
2 SIGNATURE BY THE LICENSED PHARMACIST OR MEDICAL DIRECTOR WHO MADE THE
3 DECISION TO DENY COVERAGE. THE CORPORATION SHALL SEND A COPY OF THE
4 WRITTEN DENIAL TO THE COVERED INDIVIDUAL'S TREATING HEALTH CARE PROVIDER
5 WHO REQUESTED THE AUTHORIZATION. THE CORPORATION SHALL MAINTAIN COPIES OF
6 ALL WRITTEN DENIALS AND SHALL MAKE THE COPIES AVAILABLE TO THE DEPARTMENT
7 FOR INSPECTION DURING REGULAR BUSINESS HOURS. A COVERED INDIVIDUAL OR THE
8 COVERED INDIVIDUAL'S AUTHORIZED REPRESENTATIVE MAY APPEAL ANY DETERMINATION
9 TO DENY A COVERAGE EXEMPTION. THE WRITTEN NOTIFICATION SHALL INCLUDE THE
10 PROCESS IN WHICH A COVERED INDIVIDUAL MAY APPEAL THE DETERMINATION.

11 5. IF THE CORPORATION AUTHORIZES A COVERAGE EXEMPTION FOR A COVERED
12 INDIVIDUAL PURSUANT TO THIS SECTION, THAT AUTHORIZATION SHALL BE IN EFFECT
13 UNTIL THE END OF THE COVERED INDIVIDUAL'S PLAN YEAR. THE APPROVAL OF A
14 COVERAGE EXEMPTION SHALL BE IN WRITING AND DELIVERED TO THE COVERED
15 INDIVIDUAL AND THE COVERED INDIVIDUAL'S TREATING HEALTH CARE PROVIDER.

16 F. THIS SECTION DOES NOT:

17 1. PREVENT A HEALTH CARE PROVIDER FROM PRESCRIBING ANOTHER
18 PRESCRIPTION DRUG COVERED BY THE CARRIER, THE HEALTH CARE INSURER OR THE
19 PHARMACY BENEFIT MANAGER, IF THE CARRIER, HEALTH CARE INSURER OR THE
20 PHARMACY BENEFIT MANAGER IS CONTRACTED TO PROVIDE PHARMACY BENEFIT
21 MANAGEMENT SERVICES AND THE HEALTH CARE PROVIDER DEEMS THE PRESCRIPTION
22 DRUG MEDICALLY NECESSARY FOR THE COVERED INDIVIDUAL.

23 2. PREVENT A HEALTH CARE INSURER OR PHARMACY BENEFIT MANAGER
24 CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES FROM:

25 (a) ADDING A PRESCRIPTION DRUG TO ITS FORMULARY.

26 (b) REMOVING A PRESCRIPTION DRUG FROM ITS FORMULARY IF THE DRUG
27 MANUFACTURER HAS REMOVED THE PRESCRIPTION DRUG FOR SALE IN THE UNITED
28 STATES.

29 (c) MAKING ANY FORMULARY CHANGES FOR PATIENTS WHO ARE NOT ON A
30 PREVIOUSLY APPROVED PRESCRIPTION DRUG.

31 G. IF A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
32 REVIEW AGENT THAT IS CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT

1 SERVICES VIOLATES THIS SECTION, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY
2 AGAINST THAT HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
3 REVIEW AGENT.

4 H. A POLICY THAT IS ISSUED OR RENEWED BY A DISABILITY INSURER DOES
5 NOT INCLUDE A POLICY THAT PROVIDES LIMITED BENEFIT COVERAGE AS DEFINED IN
6 SECTION 20-1137.

7 I. FOR THE PURPOSES OF THIS SECTION:

8 1. "COVERAGE EXEMPTION" MEANS THAT IMMEDIATE COVERAGE OF A HEALTH
9 CARE PROVIDER'S SELECTED PRESCRIPTION DRUG IS GRANTED.

10 2. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION
11 20-2501.

12 3. "HEALTH CARE PLAN" MEANS A POLICY, CONTRACT OR EVIDENCE OF
13 COVERAGE THAT A HEALTH CARE INSURER ISSUES TO AN INSURED, ENROLLEE OR
14 SUBSCRIBER.

15 4. "UTILIZATION REVIEW AGENT" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 20-2530.

17 Sec. 2. Applicability

18 This act applies to contracts entered into, amended, extended or
19 renewed on or after December 31, 2024."

20 Amend title to conform

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