

S.139 - HHC amendments to PBM and hospital observation status

* * * Pharmacy Benefit Managers * * *

Sec. 1. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

* * *

(6) “Maximum allowable cost” means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 2. 18 V.S.A. § 9473 is amended to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH
RESPECT TO PHARMACIES

* * *

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date ~~of~~ its claim for reimbursement is adjudicated.

* * * Notice of Hospital Observation Status * * *

Sec. 3. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 4. 18 V.S.A. § 1911a is added to read:

1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a) Each hospital shall provide oral and written notice to each individual that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, **in consultation with interested stakeholders**, for use in all hospitals.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare, Medicaid, or private insurance coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact his or her health insurance provider, the Office of the Health Care Advocate, or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral **and written** notice ~~was given were~~ **provided; the means by which written notice was provided, if not provided in person;** and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her legal guardian or authorized representative.

(e) ~~Each written notice shall be signed and dated by the individual placed in observation status, or if applicable by his or her legal guardian or authorized representative, to verify receipt and an understanding of the oral and written notice~~ **The hospital representative who provided the written notice shall request a**

signature and date from the individual or, if applicable, his or her legal guardian or authorized representative, to verify receipt of the notice. If a signature and date were not obtained, the hospital representative shall document the reason.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

(a) Secs. 1 and 2 (pharmacy benefit managers), 9 and 10 (reports), and this section shall take effect on passage.

(b) Secs. 3 and 4 (notice of hospital observation status) shall take effect on ~~July 1,~~ **2015 December 1, 2015.**