



DOMESTIC/FOREIGN INSURERS BULLETIN NO. 99

TO: ALL ADMITTED AND APPROVED DOMESTIC AND FOREIGN INSURANCE COMPANIES

RE: Pharmacy Benefits Managers – Maximum Allowable Cost Pricing

DATED: December 28, 2017 (updated January 8, 2018)

It has been brought to the attention of the Delaware Department of Insurance that several health insurers who utilize pharmacy benefits managers are not complying with Chapter 33A, Title 18 of the Delaware Code. Chapter 33A contains the requirements that must be followed by pharmacy benefits managers in order for those managers to place a drug on a maximum allowable cost list. This chapter was revised by House Bill No. 284 as amended by House Amendment No. 2 of the 148th General Assembly, effective as of January 1, 2017.

Revised Chapter 33A, provides in part that:

- A contracted pharmacy may appeal a maximum allowable cost if the reimbursement for the drug is less than the net amount that the network provider paid to the supplier of the drug; and
- A pharmacy benefits manager who utilizes maximum allowable cost pricing must establish a process through which a contracted pharmacy may appeal the provider's reimbursement for a drug that is subject to maximum allowable cost pricing. That appeals process must comply with the specific requirements and time frames set forth in the statute.

The Department expects health insurers and pharmacy benefits managers to fully familiarize themselves with Chapter 33A of Title 18 and to comply with its requirements.

Questions regarding this bulletin should be directed to Consumer Services at consumer@state.de.us.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

Handwritten signature of Trinidad Navarro in blue ink.

Trinidad Navarro
Delaware Insurance Commissioner

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.