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SENATE BILL NO. 359

Offered January 12, 2022

Prefiled January 11, 2022

A *BILL to amend and reenact § 38.2-3468 of the Code of Virginia, relating to pharmacy benefits managers; frequency of required report.*

Patron—Stuart

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-3468 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-3468. Examination of books and records; reports; access to records.**

A. Each carrier, on its own or through its contract for pharmacy benefits, shall ensure that the Commissioner may examine or audit the books and records of a pharmacy benefits manager providing claims processing services or other prescription drug or device services for a carrier that are relevant to determining if the pharmacy benefits manager is in compliance with this article. The carrier shall be responsible for the charges incurred in the examination, including the expenses of the Commissioner or his designee and the expenses and compensation of his examiners and assistants.

B. ~~Any~~ Each carrier, on its own or through its contract for pharmacy benefits, shall report *the following information* to the Commissioner ~~on a quarterly basis~~ for each health benefit plan ~~the following information:~~

1. The aggregate amount of rebates received by the pharmacy benefits manager;
2. The aggregate amount of rebates distributed to the appropriate health benefit plan;
3. The aggregate amount of rebates passed on to the enrollees of each health benefit plan at the point of sale that reduced the enrollees' applicable deductible, copayment, coinsurance, or other cost-sharing amount;

4. Upon the request of the Commission, the individual and aggregate amount paid by the health benefit plan to the pharmacy benefits manager for services itemized by pharmacy, by product, and by goods and services; and

5. Upon the request of the Commission, the individual and aggregate amount a pharmacy benefits manager paid for services itemized by pharmacy, by product, and by goods and services.

The report required by this subsection shall be filed on a quarterly basis through March 31, 2023. The final quarterly report shall include information for the period ending December 31, 2022. Thereafter, by March 31 of each year, the report shall be filed on a calendar year basis. The 2023 calendar year report shall be filed by March 31, 2024.

C. All working papers, documents, reports, and copies thereof, produced by, obtained by or disclosed to the Commission or any other person in the course of an examination made under this article and any analysis of such information or documents shall be given confidential treatment, are not subject to subpoena, and may not be made public by the Commission or any other person. Access may also be granted to (i) a regulatory official of any state or country; (ii) the National Association of Insurance Commissioners (NAIC), its affiliate, or its subsidiary; or (iii) a law-enforcement authority of any state or country, provided that those officials are required under their law to maintain its confidentiality. Any such disclosure by the Commission shall not constitute a waiver of confidentiality of such papers, documents, reports or copies thereof. Any parties receiving such papers must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section.

INTRODUCED

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