**HB1246/193327/1**

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 1246
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with "certain" in line 4 down through "Act;" in line 17 and substitute "administrators, carriers, and pharmacy benefits managers to include certain cost sharing amounts paid by or on behalf of an enrollee or a beneficiary when calculating the enrollee's or beneficiary's contribution to a cost sharing requirement for certain health care services; providing that the calculation requirement does not apply to enrollees in certain high–deductible health plans; prohibiting administrators, carriers, and pharmacy benefits managers from directly or indirectly setting, altering, implementing, or conditioning the terms of certain coverage based on certain information; requiring third parties that pay certain financial assistance to provide certain notification to an enrollee and prohibiting the third parties from conditioning the assistance on the enrollee taking certain actions;"; and in line 21, after "15–118.1" insert "and 15–1611.3".

AMENDMENT NO. 2

On page 2, after line 5, insert:

"**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) "ADMINISTRATOR" HAS THE MEANING STATED IN § 8–301 OF THIS ARTICLE.**

**(3) "CARRIER" MEANS:**

**(I) AN INSURER;**

**(II) A NONPROFIT HEALTH SERVICE PLAN;**

**(III) A HEALTH MAINTENANCE ORGANIZATION; AND**

**(IV) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.**

**(4) "COST SHARING" MEANS ANY COPAYMENT, COINSURANCE, DEDUCTIBLE, OR OTHER SIMILAR CHARGE REQUIRED OF AN ENROLLEE FOR A HEALTH CARE SERVICE COVERED BY A HEALTH BENEFIT PLAN, INCLUDING A PRESCRIPTION DRUG, AND PAID BY OR ON BEHALF OF THE ENROLLEE.**

**(5) "ENROLLEE" MEANS AN INDIVIDUAL ENTITLED TO PAYMENT FOR HEALTH CARE SERVICES FROM AN ADMINISTRATOR OR A CARRIER.**

**(6) (I) "HEALTH BENEFIT PLAN" MEANS A POLICY, A CONTRACT, A CERTIFICATION, OR AN AGREEMENT OFFERED OR ISSUED BY AN ADMINISTRATOR OR A CARRIER TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES.**

**(II) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE A SELF–INSURED EMPLOYEE PLAN SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME ACT OF 1974 (ERISA).**

**(7) "HEALTH CARE SERVICE" MEANS AN ITEM OR A SERVICE PROVIDED TO AN INDIVIDUAL FOR THE PURPOSE OF PREVENTING, ALLEVIATING, CURING, OR HEALING HUMAN ILLNESS, INJURY, OR PHYSICAL DISABILITY.**

**(B) THE ANNUAL LIMITATION ON COST SHARING PROVIDED FOR UNDER 42 U.S.C. § 18022(C)(1) SHALL APPLY TO ALL HEALTH CARE SERVICES COVERED UNDER A HEALTH BENEFIT PLAN OFFERED OR ISSUED BY AN ADMINISTRATOR OR A CARRIER IN THE STATE.**

**(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WHEN CALCULATING AN ENROLLEE'S CONTRIBUTION TO AN APPLICABLE COST SHARING REQUIREMENT, AN ADMINISTRATOR OR A CARRIER SHALL INCLUDE COST SHARING AMOUNTS PAID BY THE ENROLLEE OR ON BEHALF OF THE ENROLLEE BY ANOTHER PERSON.**

**(2) THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WITH RESPECT TO THE DEDUCTIBLE REQUIREMENT OF A HIGH–DEDUCTIBLE HEALTH PLAN IF AN ENROLLEE IS COVERED UNDER A HIGH–DEDUCTIBLE HEALTH PLAN UNDER 26 U.S.C. § 223.**

**(D) AN ADMINISTRATOR OR A CARRIER MAY NOT DIRECTLY OR INDIRECTLY SET, ALTER, IMPLEMENT, OR CONDITION THE TERMS OF HEALTH BENEFIT PLAN COVERAGE, INCLUDING THE BENEFIT DESIGN, BASED IN WHOLE OR IN PART ON INFORMATION ABOUT THE AVAILABILITY OR AMOUNT OF FINANCIAL OR PRODUCT ASSISTANCE AVAILABLE FOR A PRESCRIPTION DRUG OR BIOLOGICAL PRODUCT.**

**(E) A THIRD PARTY THAT PAYS FINANCIAL ASSISTANCE IN ANY AMOUNT, OR PORTION OF THE AMOUNT, OF ANY APPLICABLE COST–SHARING OR OTHER OUT–OF–POCKET EXPENSE ON BEHALF OF AN ENROLLEE FOR A COVERED PRESCRIPTION DRUG:**

**(1) SHALL NOTIFY THE ENROLLEE WITHIN 7 DAYS OF THE ACCEPTANCE OF THE FINANCIAL ASSISTANCE OF THE TOTAL AMOUNT OF ASSISTANCE AVAILABLE AND THE DURATION FOR WHICH IT IS AVAILABLE; AND**

**(2) MAY NOT CONDITION THE ASSISTANCE ON ENROLLMENT IN A SPECIFIC HEALTH PLAN OR TYPE OF HEALTH PLAN, EXCEPT AS AUTHORIZED UNDER FEDERAL LAW.**

**(F) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

**15–1611.3.**

**(A) THIS SECTION APPLIES ONLY TO A PHARMACY BENEFITS MANAGER THAT PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES ON BEHALF OF A CARRIER.**

**(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WHEN CALCULATING A BENEFICIARY'S CONTRIBUTION TO AN APPLICABLE COST SHARING REQUIREMENT, A PHARMACY BENEFITS MANAGER SHALL INCLUDE COST SHARING AMOUNTS PAID BY THE BENEFICIARY OR ON BEHALF OF THE BENEFICIARY BY ANOTHER PERSON.**

**(2) THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WITH RESPECT TO THE DEDUCTIBLE REQUIREMENT OF A HIGH–DEDUCTIBLE HEALTH PLAN IF AN ENROLLEE IS COVERED UNDER A HIGH–DEDUCTIBLE HEALTH PLAN UNDER 26 U.S.C. § 223.**

**(C) A PHARMACY BENEFITS MANAGER MAY NOT DIRECTLY OR INDIRECTLY SET, ALTER, IMPLEMENT, OR CONDITION THE TERMS OF HEALTH BENEFIT PLAN COVERAGE, INCLUDING THE BENEFIT DESIGN, BASED IN WHOLE OR IN PART ON INFORMATION ABOUT THE AVAILABILITY OR AMOUNT OF FINANCIAL OR PRODUCT ASSISTANCE AVAILABLE FOR A PRESCRIPTION DRUG OR BIOLOGICAL PRODUCT.**

**(D) A THIRD PARTY THAT PAYS FINANCIAL ASSISTANCE IN ANY AMOUNT, OR PORTION OF THE AMOUNT, OF ANY APPLICABLE COST–SHARING OR OTHER OUT–OF–POCKET EXPENSE ON BEHALF OF AN ENROLLEE FOR A COVERED PRESCRIPTION DRUG:**

**(1) SHALL NOTIFY THE ENROLLEE WITHIN 7 DAYS OF THE ACCEPTANCE OF THE FINANCIAL ASSISTANCE OF THE TOTAL AMOUNT OF ASSISTANCE AVAILABLE AND THE DURATION FOR WHICH IT IS AVAILABLE; AND**

**(2) MAY NOT CONDITION THE ASSISTANCE ON ENROLLMENT IN A SPECIFIC HEALTH PLAN OR TYPE OF HEALTH PLAN, EXCEPT AS AUTHORIZED UNDER FEDERAL LAW.**".

On pages 2 through 4, strike in their entirety the lines beginning with line 6 on page 2 through line 6 on page 4.