Unauthorized Transfers of Accounts of Prescription Drug Customers

This Act precludes unauthorized transfers of accounts of prescription drug customers and makes violations of the provision concerning unauthorized transfer of a covered person or subscriber's prescription an unfair method of competition and unfair or deceptive act or practice in the business of insurance.

Submitted as:
Colorado
Chapter 310 of 2001

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act may be cited as “An Act to Prohibit Unauthorized Transfers of Accounts of Prescription Drug Customers.”

Section 2. [Definitions.] As used in this Act, “Pharmacy Benefit Management Firm” means any entity doing business in this state which contracts to administer or manage prescription drug benefits on behalf of any carrier that provides prescription drug benefits to residents of this state.

Section 3. [Access to Prescription Drugs.]
(A) No pharmacy benefit manager or carrier offering a managed care plan shall transfer or request that a pharmacy provider transfer the prescription or prescriptions of a covered person or subscriber, wholly or in part, to a different participating pharmacy provider than the provider selected by the covered person or subscriber unless one or more of the following conditions have been met:

(I) The participating pharmacy provider to whom the covered person or subscriber’s prescription is to be transferred or the carrier or pharmacy benefit manager has obtained a document, signed by the covered person or subscriber, that contains a clear, conspicuous, and unequivocal request by the covered person or subscriber for a change of provider;

(II) The participating pharmacy provider carrier or pharmacy benefit manager to whom the covered person or subscriber’s prescription is to be transferred has obtained the covered person or subscriber’s oral authorization for the transfer and is able to furnish proof of such authorization through verification by an independent third party or an electronic record; or

(III) The pharmacy provider's participation in the pharmacy network of the carrier or pharmacy benefit manager has changed and the pharmacy provider selected by the covered person or subscriber is no longer a participating provider in the network, provided that the covered person or subscriber has been notified of the proposed transfer of pharmaceutical care services and is given an opportunity to affirmatively select a participating pharmacy provider other than the proposed transferee.

(B) Nothing in this subsection shall require a carrier offering a managed care plan or a pharmacy benefit manager to pay for pharmaceutical benefits received from a nonparticipating provider.

Section 4. [Unfair Methods of Competition and Unfair or Deceptive Acts or Practices.] A violation of the provisions of this Act may be defined as an unfair method of competition and unfair or deceptive act or practice in the business of insurance in this state.
Section 5. [Applicability.] The provisions of this Act shall apply to all contracts for pricing and terms for the Administration of a prescription drug benefit negotiated, renegotiated, or renewed by insurers subject to [insert citation], on or after the effective date of this Act.

Section 6. [Severability.] [Insert severability clause.]

Section 7. [Repealer.] [Insert repealer clause.]

Section 8. [Effective Date.] [Insert effective date.]