

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

846B0596

HOUSE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **HB 1137** - 2/7/2019

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Gosch, Anderson, Jensen (Kevin), Lake, and Peterson (Kent) and Senators Steinhauer, Bolin, Rusch, Smith (VJ), and Solano

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding pharmacy benefit  
2 managers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-29E be amended by adding a NEW SECTION to read:

5 No pharmacy benefit manager shall contractually require a pharmacy, who is a participating  
6 provider in a health plan provided by a covered entity, to charge or collect from an insured a cost  
7 share for a prescription or pharmacy service that exceeds the amount retained by the pharmacist  
8 or pharmacy from all payment sources for the filling of the prescription or providing the  
9 pharmacy service.

10 Section 2. That chapter 58-29E be amended by adding a NEW SECTION to read:

11 No pharmacy benefit manager contracting with a covered entity shall retroactively adjust a  
12 claim for reimbursement submitted by a pharmacy for a prescription drug unless the adjustment  
13 is a result of either of the following:

14 (1) A pharmacy audit conducted in accordance with chapter 58-29F; or



1 (2) A technical billing error.

2 Section 3. That chapter 58-29E be amended by adding a NEW SECTION to read:

3 Nothing in this Act shall prohibit a pharmacy benefit manager from adjusting claim payment  
4 for the benefit of a covered individual if there was an error in the adjudication of a claim  
5 submitted by or on behalf of the covered individual.

6 Section 4. That chapter 58-29E be amended by adding a NEW SECTION to read:

7 No pharmacy benefit manager may discriminate against a pharmacy participating in a health  
8 plan as an entity authorized to participate under section 340B of the Public Health Service Act,  
9 as amended to January 1, 2019, or any pharmacy under contract with such an entity to provide  
10 prescriptions. For the purposes of this chapter, a retail pharmacy is any pharmacy licensed under  
11 the laws of this state, and no pharmacy benefit manager may, by contract, modify that definition.