

DISTRICT OF COLUMBIA OFFICIAL CODE
TITLE 48. FOOD AND DRUGS
SUBTITLE II. PRESCRIPTION DRUGS
CHAPTER 8A. AFFORDABILITY OF PRESCRIPTION DRUGS-
ACCESSRX PROGRAM

SUBCHAPTER II. TRANSPARENT BUSINESS PRACTICES AMONG PHARMACY BENEFITS MANAGERS

§ 48-832.01. Fiduciary duty

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SUBCHAPTER II. TRANSPARENT BUSINESS PRACTICES

§ 48-832.01. Fiduciary duty.

(a) A pharmacy benefits manager owes a fiduciary duty to a covered entity and shall discharge that duty in accordance with all applicable laws. In performance of that duty, a pharmacy benefits manager shall adhere to the practices set forth in this section.

(b) (1) A pharmacy benefits manager shall:

(A) Perform its duties with care, skill, prudence, and diligence and in accordance with the standards of conduct applicable to a fiduciary in an enterprise of a like character and with like aims;

(B) Discharge its duties with respect to the covered entity for the primary purpose of providing benefits to covered individuals and defraying reasonable expenses incurred; and

(C) Notify the covered entity in writing of any activity, policy or practice of the pharmacy benefits manager that directly or indirectly presents any conflict of interest with the duties imposed by this subchapter; and

(2) A pharmacy benefits manager that receives from any drug manufacturer or labeler any payment or benefit of any kind in connection with the utilization of prescription drugs by covered individuals, including payments or benefits based on volume of sales or market share, shall pass that payment or benefit on in full to the covered entity. This provision does not prohibit the covered entity from agreeing by contract to compensate the pharmacy benefits manager by returning a portion of the benefit or

payment to the pharmacy benefits manager.

(c) (1) Upon request by a covered entity, a pharmacy benefits manager retained by that covered entity shall:

(A) Provide information showing the quantity of drugs purchased by the covered entity and the net cost to the covered entity for the drugs. This information shall include all rebates, discounts, and other similar payments. If requested by the covered entity, the pharmacy benefits manager shall provide such quantity and net cost information on a drug-by-drug basis by National Drug Code registration number rather than on an aggregated basis; and

(B) Disclose to the covered entity all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefits manager and any prescription drug manufacturer or labeler, including, without limitation, formulary management and drug-substitution programs, educational support, claims processing, and data sales fees.

(2) A pharmacy benefits manager providing information to a covered entity under this section may designate that information as confidential. Information designated as confidential may not be disclosed by the covered entity to any other person or entity without the consent of the pharmacy benefits manager, unless ordered by a court of the District for good cause shown.

(d) The following provisions apply to the dispensation of a substitute prescription drug for a prescribed drug to a covered individual:

(1) The pharmacy benefits manager may substitute a lower-priced therapeutically equivalent drug for a higher-priced prescribed drug.

(2) If the substitute drug costs more than the prescribed drug, the substitution shall be made for medical reasons that benefit the covered individual. If a substitution is being made under this paragraph, the pharmacy benefits manager shall obtain the approval of the prescribing health professional or that person's authorized representative after disclosing to the covered individual and the covered entity the cost of both drugs and any benefit or payment directly or indirectly accruing to the pharmacy benefits manager as a result of the substitution.

(3) The pharmacy benefits manager shall transfer in full to the covered entity any benefit or payment received in any form by the pharmacy benefits manager as a result of a prescription drug substitution under paragraphs (1) or (2) of this subsection.

§ 48-832.02. Compliance.

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Title 48

D.C. Official Code

Compliance with the requirements of this subchapter is required in all contracts between a pharmacy benefits manager and a covered entity executed after May 18, 2004.

§ 48-832.03. Enforcement.

A violation of this subchapter is a violation of Chapter 39 of Title 28, for which a fine of not more than \$ 10,000 may be adjudged.