AN ACT concerning insurance; relating to pharmacy benefits managers; the federal 340B drug pricing program; prohibiting disparate treatment of certain pharmacies and pharmaceutical services providers.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:
1. "340B covered entity" means an entity participating in the federal 340B drug pricing program authorized by 42 U.S.C. § 256b, including such entity's pharmacy or pharmacies, or any pharmacy or pharmacies contracted for the purpose of dispensing drugs purchased through such program.
2. "Covered drug" means the same as defined in 42 U.S.C. § 256b(b) as in effect on July 1, 2020.
4. "PBM Affiliate" means a pharmacy, pharmacist or pharmacy technician that directly or indirectly through one or more intermediaries owns or controls, is owned or controlled by or is under common ownership or control with a pharmacy benefits manager.
5. "Pharmacy benefits manager" or "PBM" means the same as defined in K.S.A. 2019 Supp. 40-3822, and amendments thereto.

(b) (1) A pharmacy benefits manager shall not disparately treat any pharmacy or pharmaceutical services provider by imposing or requiring terms of such pharmacy or pharmaceutical services provider that differ from those imposed or required of other pharmacies or pharmaceutical services providers based solely on such pharmacy's or pharmaceutical services provider's eligibility or designation as a 340B covered entity.
2. Disparate terms include, but are not limited to:
   (A) The exclusion of 340B-eligible or 340B covered entities from provider networks;
   (B) reimbursing 340B-eligible or 340B covered entities less than the amount that the prescription drug coverage reimburses a PBM affiliate for providing the same pharmacist services; and
   (C) assessing any fee, chargeback, participation requirement or other adjustment upon a 340B covered entity solely on the basis that the 340B covered entity participates in the federal 340B drug pricing program.
(c) A PBM shall not discriminate against a 340B covered entity in a manner that prevents or interferes with a covered person's choice to receive a covered drug from the 340B covered entity.

(d) A PBM shall not collect from or require a pharmacy or pharmacist to collect from a covered person any cost-share amount for a prescription drug at the point of sale that exceeds the lesser of:
   (1) The contracted co-payment amount;
   (2) the amount the covered person would pay for a prescription drug if such covered person did not have prescription drug coverage; or
   (3) the contracted amount for the drug.

(e) The commissioner of insurance shall adopt all necessary rules and regulations to oversee, administer and enforce the provisions of this section, including penalties for non-compliance. Such rules and regulations shall be adopted not later than July 1, 2021.

(f) This section shall be a part of and supplemental to article 38 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.