

CHAPTER NO. 236

SENATE BILL NO. 528

By McNally, Jackson, Herron, Trail, Person, Williams, Davis, Dixon, Carter, Haun

Substituted for: House Bill No. 838

By McDaniel, Rhinehart, Shepard, Ronnie Davis, Overbey, Rowland, Windle, Walker, Baird,  
Patton, Ford, Roach, Montgomery

AN ACT To amend Chapter 1033 of the Public Acts of 1998, and Tennessee Code Annotated,  
Section 56-7-2359, relative to pharmacy and pharmacy access.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Section 11 of Chapter 1033 of the Public Acts of 1998, is amended by deleting from the last sentence the language "Sections 7 and 9" and by substituting instead the language "Section 7".

SECTION 2. Tennessee Code Annotated, Section 56-7-2359(a), is amended in the first line of the amendatory language by inserting the language "and no managed health insurance issuer" after the words "No health insurance issuer".

SECTION 3. Tennessee Code Annotated, Section 56-7-2359(a)(1), is amended by inserting the language "or health insurance issuer" after the language "managed health insurance issuer" wherever such language appears.

SECTION 4. Tennessee Code Annotated, Section 56-7-2359(a)(3), is amended by deleting the subdivision in its entirety.

SECTION 5. Tennessee Code Annotated, Section 56-7-2359, is further amended by adding the following language as a new subsection (e):

(e) Each health insurance issuer or managed health insurance issuer shall apply the same coinsurance, co-payment, deductible and quantity limit factors within the same employee group and other plan-sponsored group to all drug prescriptions filled by any licensed pharmacy provider, whether by a retail provider or a mail service provider, provided all pharmacy providers comply with the same terms and conditions. Nothing in this section shall be construed to prohibit the health insurance issuer or managed health insurance issuer from applying different co-insurance, co-payment, and deductible factors within the same employer group and other plan-sponsored group between generic and brand-name drugs nor prohibit an employer or other plan-sponsored group from offering multiple options or choices of health insurance benefit plans including, but not limited to, cafeteria benefit plans.

SECTION 6. Tennessee Code Annotated, Section 56-7-2359(b), is amended by inserting the language "or managed health insurance issuer" after the language "health insurance issuer".

SECTION 7. Tennessee Code Annotated, Section 56-7-2359(c), is amended by inserting the language "or health insurance issuer" after the language "managed health insurance issuer" wherever such language appears and by inserting the language "or managed health insurance issuer" after the language "health insurance issuer".

SECTION 8. Tennessee Code Annotated, Section 56-7-2359, is amended by adding the following language as a new subsection (d):

(d) The term "managed health insurance issuer" has the same meaning as such term is defined in §56-32-228(a).


SECTION 9. The provisions of this act shall not apply to health plans preempted from state regulation by the Employee Retirement Income Security Act of 1974 ("ERISA").

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect July 1, 2001, the public welfare requiring it.

**PASSED: May 3, 2001**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this            day of            2000**

\_\_\_\_\_  
DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 528 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.