

S-0497- Prohibition Against Gag Clauses

Chairman Casey and members of the Health and Human Services Committee, on behalf of AARP- Rhode Island and our over 132,000+ members in Rhode Island we are in strong support of S-0497 that creates a prohibition against gag clauses.

Specifically, the legislation is intended to eliminate “gag clauses” in contracts between pharmacies and PBMs that prohibit a pharmacist from informing a consumer if a drug would cost less if the consumer paid out-of-pocket, rather than through their insurance plan.

From 2016 to 2018, thirty states enacted laws to prohibit gag clauses. Building on this momentum, the President signed into law two federal laws that prohibit gag clauses in Medicare and Medicare Advantage plans as well as in most commercial insurance plans.

In 2019, ten states passed bills that built on the federal prohibitions by codifying the federal language in state statute, broadening the prohibition to include other types of coverage (e.g., state employee health plans) or requiring pharmacists to proactively inform consumers if a drug would cost less if they paid out-of-pocket. This legislation is intended to achieve all of the aforementioned conditions that go beyond the federal regulation.

A prohibition on the use of gag clauses means that some consumers could pay less for their prescriptions if the out-of-pocket cost is less than the co-pay under their insurance.

We strongly urge the Committee to pass this legislation so that Rhode Islanders can obtain relief from the high cost of prescription drugs.

Sincerely,

Matthew Netto

Associate State Director – AARP RI