

2018 Regular Session

SENATE BILL NO. 283

BY SENATOR MILLS

HEALTH/ACC INSURANCE. Provides relative to pharmacy benefit managers. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 22:1657 and R.S. 44:4.1(B)(11) and to enact R.S. 22:1657.1,  
3 relative to pharmacy benefit managers; to provide for internet publication of  
4 formularies; to provide for transparency reporting; to provide for certain reportable  
5 aggregate data; to provide for internet publication of the transparency report; to  
6 provide for definitions; to provide for enforcement; to provide for applicability to the  
7 Medicaid program; to provide for confidentiality; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1657 is hereby amended and reenacted to read as follows:

10 §1657. Pharmacy benefit managers

11 A. A pharmacy benefit manager shall be deemed to be a third-party  
12 administrator for purposes of this Part. As such, all provisions of this Part shall apply  
13 to pharmacy benefit managers; however, notwithstanding the provisions of R.S.  
14 22:1651(F), every pharmacy benefit manager shall be required to be licensed by the  
15 commissioner of insurance.

16 **B. The commissioner of insurance shall provide a dedicated location on**  
17 **the department's website for pharmacy benefit manager information and links.**

1           C. For each of a pharmacy benefit manager's contractual or other  
2           relationships with a health benefit plan or health insurance issuer, the  
3           pharmacy benefit manager shall provide the department with the health benefit  
4           plan's formulary and provide timely notification of formulary changes and  
5           product exclusions. The information provided pursuant to this Subsection shall  
6           be made available in a centralized location on the department's website in a  
7           format that allows for consumer access, including links to pharmacy benefit  
8           manager websites.

9           D. Notwithstanding any provision of law to the contrary, the provisions  
10          of this Section shall apply to any pharmacy benefit manager that has a contract  
11          with the Louisiana Department of Health or is a subcontractor with a managed  
12          care organization that has a contract with the Louisiana Department of Health  
13          for the provision of services in the Medicaid program.

14          §1657.1. Pharmacy benefit manager rebate transparency report

15          A. Each pharmacy benefit manager licensed by the commissioner of  
16          insurance shall submit an annual transparency report as a condition of  
17          maintaining licensure.

18          B. As used in this Section, the following definition shall apply:

19          (1) "Aggregate retained rebate percentage" means the percentage,  
20          calculated for each prescription drug for which a pharmacy benefit manager  
21          receives rebates under a particular health benefit plan expressed without  
22          disclosing any identifying information regarding the health benefit plan,  
23          prescription drug, or therapeutic class. The calculation shall be based upon the  
24          aggregate rebates that the pharmacy benefit manager received during the prior  
25          calendar year from a pharmaceutical manufacturer related to utilization of the  
26          manufacturer's prescription drug by health benefit plan enrollees that did not  
27          pass through to the health benefit plan or health insurance issuer divided by the  
28          aggregate rebates that the pharmacy benefit manager received during the prior  
29          calendar year from a pharmaceutical manufacturer related to utilization of the

1 manufacturer's prescription drug by health benefit plan enrollees.

2 (2) "Health benefit plan", "plan", "benefit", or "health insurance  
3 coverage" means services consisting of medical care provided directly through  
4 insurance, reimbursement, or other mean, and including items and services paid  
5 for as medical care under any hospital or medical service policy or certificate,  
6 hospital or medical service plan contract, preferred provider organization, or  
7 health maintenance organization contract offered by a health insurance issuer.  
8 However, excepted benefits are not included as a "health benefit plan".

9 (3) "Health insurance issuer" means any entity that offers health  
10 insurance coverage through a plan, policy, or certificate of insurance subject to  
11 state law that regulates the business of insurance. "Health insurance issuer"  
12 shall also include a health maintenance organization, as defined and licensed  
13 pursuant to Subpart I of Part I of Chapter 2 of this Title.

14 (4) "Rebates" means all rebates, discounts, and other price concessions,  
15 based on utilization of a prescription drug and paid by the manufacturer or  
16 other party other than an enrollee, directly or indirectly, to the pharmacy  
17 benefit manager after the claim has been adjudicated at the pharmacy. Rebates  
18 include a reasonable estimate of any volume-based or other discounts.

19 C.(1) Beginning February 1, 2019, and annually thereafter, each licensed  
20 pharmacy benefit manager shall submit a transparency report containing data  
21 from the prior calendar year to the department. The transparency report shall  
22 contain the following information for each of the pharmacy benefit manager's  
23 contractual or other relationships with a health benefit plan or health insurance  
24 issuer:

25 (a) The aggregate amount of all rebates that the pharmacy benefit  
26 manager received from pharmaceutical manufacturers.

27 (b) The aggregate administrative fees that the pharmacy benefit manager  
28 received.

29 (c) The aggregate rebates that the pharmacy benefit manager received

1 from pharmaceutical manufacturers and did not pass through to the health  
2 benefit plan or health insurance issuer.

3 (d) The highest, lowest, and mean aggregate retained rebate percentage.

4 (2) The transparency report shall be made available in a form that does  
5 not disclose the identity of a specific health benefit plan, the prices charged for  
6 specific drugs or classes of drugs, or the amount of any rebates provided for  
7 specific drugs or classes of drugs.

8 (3) Within ten days of receipt, the Department of Insurance shall publish  
9 the transparency report on the department's website in a location designated  
10 for pharmacy benefit manager information pursuant to R.S. 22:1657(B).

11 (4) The pharmacy benefit manager and the Department of Insurance  
12 shall not publish or disclose any information that would reveal the identity of  
13 a specific health benefit plan, the prices charged for a specific drug or class of  
14 drugs, or the amount of any rebates provided for a specific drug or class of  
15 drugs. Any such information shall be protected from disclosure as confidential  
16 and proprietary information and shall not be regarded as public record under  
17 R.S. 4:44.1 et seq.

18 D. The commissioner of insurance shall have enforcement authority over  
19 this Section. Among other enforcement mechanisms, the commissioner of  
20 insurance may, after a hearing, suspend or revoke a pharmacy benefit  
21 manager's license for failure to comply with the requirements of this Section.

22 E. Notwithstanding any provision of law to the contrary, the provisions  
23 of this Section shall apply to any pharmacy benefit manager that has a contract  
24 with the Louisiana Department of Health or is a subcontractor with a managed  
25 care organization that has a contract with the Louisiana Department of Health  
26 for the provision of services in the Medicaid program.

27 Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:

28 §4.1. Exceptions

29 A.

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B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

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(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1, 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, **1675.1**, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 283 Engrossed

2018 Regular Session

Mills

Present law requires pharmacy benefit managers to be licensed by LDI. Proposed law requires LDI to have a dedicated location on their website to publish pharmacy benefit manager information, including the formulary and timely notification of formulary changes by each licensed pharmacy benefit manager.

Proposed law requires pharmacy benefit managers to issue an annual transparency report that discloses aggregate data on rebates received from drug manufacturers, administrative fees, and aggregate rebates received that did not pass through to the health benefit plan or insurer. Proposed law requires LDI to publish the transparency report within ten days of receipt from the pharmacy benefit manager.

Proposed law provides for enforcement against the pharmacy benefit manager's license for failure to comply with proposed law.

Proposed law applies to pharmacy benefit managers participating in the Medicaid program.

Proposed law provides for an exception to the public records act.

Effective August 1, 2018.

(Amends R.S. 22:1657 and R.S. 44:4.1(B)(11); adds R.S. 22:1657.1)