

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 confidentiality;
7 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 §1657.1. Pharmacy benefit manager rebate transparency report

10 A. Each pharmacy benefit manager licensed by the commissioner of
11 insurance shall submit an annual transparency report as a condition of
12 maintaining licensure.

13 B. As used in this Section, the following definitions shall apply:

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

27 (2) "Health benefit plan", "plan", "benefit", or "health insurance
28 coverage" means services consisting of medical care provided directly through
29 insurance, reimbursement, or other means, and including items and services

1 paid for as medical care under any hospital or medical service policy or
2 certificate, hospital or medical service plan contract, preferred provider
3 organization, or health maintenance organization contract offered by a health
4 insurance issuer. However, excepted benefits are not included as a "health
5 benefit plan".

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

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

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

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

25 (b) The aggregate administrative fees that the pharmacy benefit manager
26 received.

27 (c) The aggregate rebates that the pharmacy benefit manager received
28 from pharmaceutical manufacturers and did not pass through to the health
29 benefit plan or health insurance issuer.

1 limitations are hereby continued in effect by incorporation into this Chapter by
2 citation:

3 * * *

4 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
5 574, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1, 691.10, 691.38,
6 691.56, 732, 752, 753, 771, 834, 972(D), 1008, 1019.2, 1203, 1460, 1464, 1466,
7 1488, 1546, 1559, 1566(D), 1644, 1656, **1675.1**, 1723, 1796, 1801, 1808.3, 1927,
8 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303

9 * * *

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by J. W. Wiley.

DIGEST

SB 283 Reengrossed

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 that not less than 30 days prior to a drug price increase of 50% or greater, a pharmaceutical drug manufacturer must notify the commissioner of insurance by electronic mail of any such change.

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

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)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Removes provision that states that proposed law applies to pharmacy benefit managers participating in the Medicaid program.

2. Adds provision for notification when there is a drug price increase of 50% or greater.
3. Makes technical changes.