

2026 Regular Session

SENATE BILL NO. 337

BY SENATOR HARRIS

HEALTH/ACC INSURANCE. Provides relative to pharmacy benefit managers. (8/1/26)

1 AN ACT

2 To amend and reenact R.S. 22:1863 and R.S. 44:4.1(B)(11), to enact R.S. 22:1867.1, and to
3 repeal R.S. 22:1868.1, relative to pharmacy benefit managers; to provide for
4 definitions; to provide for a duty to enrollees, health plans, and providers; to provide
5 for compensation; to provide for a private cause of action; to provide for audits; to
6 provide for contract and other requirements; to provide for penalties; to provide for
7 a public records exemption; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1863 is hereby amended and reenacted and R.S. 22:1867.1 is
10 hereby enacted to read as follows:

11 §1863. Definitions

12 As used in this Subpart, the following definitions apply:

13 (1) "Drug Shortage List" means a list of drug products posted on the United
14 States Food and Drug Administration drug shortage website.

15 (2) "Effective rate pricing" means any payment reduction for pharmacist or
16 pharmacy services by a pharmacy benefit manager under a reconciliation process for
17 direct or indirect remuneration fees, a brand or generic effective rate of

1 reimbursement, or any other reduction or aggregate reduction of payment.

2 **(3) "Enrollee" means any individual entitled to coverage of healthcare**
3 **services from a health insurance issuer under a health plan.**

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

11 **(5) "Healthcare service" means an item or service furnished to any**
12 **individual for the purpose of preventing, diagnosing, alleviating, curing, or**
13 **healing human illness, injury, or physical disability.**

14 ~~(4)~~**(6)** "Health insurance issuer" means any entity that offers health insurance
15 coverage through a plan, policy, or certificate of insurance subject to state law that
16 regulates the business of insurance. "Health insurance issuer" shall also include a
17 health maintenance organization, as defined and licensed pursuant to Subpart I of
18 Part I of Chapter 2 of this Code.

19 ~~(5)~~**(7)** "Local pharmacy" means a pharmacy as defined in the North American
20 Industry Classification System (NAICS) Code 456110, which is domiciled in
21 Louisiana and has fewer than ten retail outlets under its corporate umbrella.

22 ~~(6)~~**(8)** "Maximum Allowable Cost List" means a listing of the National Drug
23 Code used by a pharmacy benefit manager setting the maximum allowable cost on
24 which reimbursement to a pharmacy or pharmacist may be based. "Maximum
25 Allowable Cost List" shall include any term that a pharmacy benefit manager or a
26 healthcare insurer may use to establish reimbursement rates for generic and
27 multi-source brand drugs to a pharmacist or pharmacy for pharmacist services.

28 ~~(7)~~**(9)** "NDC" means the National Drug Code, a numerical identifier assigned
29 to all prescription drugs.

1 (10) "Person" includes a natural person, corporation, mutual company,
2 unincorporated association, partnership, joint venture, limited liability
3 company, trust, estate, foundation, not-for-profit corporation, unincorporated
4 organization, government or governmental subdivision, or agency.

5 ~~(8)~~(11) "Pharmacist" means a licensed pharmacist as defined in R.S. 22:1852.

6 ~~(9)~~(12) "Pharmacist services" means products, goods, or services provided
7 as a part of the practice of pharmacy as defined in R.S. 22:1852.

8 ~~(4)~~(13) "Pharmacy" means any appropriately licensed place where
9 prescription drugs are dispensed as defined in R.S. 22:1852.

10 (14) "Pharmacy benefit management fee" means a fee that covers the
11 cost of providing one or more pharmacy benefit management services and that
12 does not exceed the value of the service or services actually performed by the
13 pharmacy benefit manager.

14 (15) "Pharmacy benefit management service" means any of the
15 following:

16 (a) Negotiating the price of prescription drugs, including negotiating and
17 contracting for direct or indirect rebates, discounts, or other price concessions.

18 (b) Managing any aspect of a prescription drug benefit including but not
19 limited to the processing and payment of claims for prescription drugs, the
20 performance of drug utilization review, the processing of drug prior
21 authorization requests, the adjudication of appeals or grievances related to the
22 prescription drug benefit, contracting with network pharmacies, controlling the
23 cost of covered prescription drugs, managing or providing data relating to the
24 prescription drug benefit, or the provision of services related thereto.

25 (c) Performance of any administrative, managerial, clinical, pricing,
26 financial, reimbursement, data administration or reporting, or billing service.

27 (d) Such other services as the commissioner may define by rule or
28 regulation.

29 ~~(11)~~(16) "Pharmacy benefit manager" has the same meaning as the term

1 defined in R.S. 22:1641 and includes any person, either directly or indirectly, that
2 provides one or more pharmacy benefit management services on behalf of an insurer
3 or health plan, and any agent, contractor, intermediary, affiliate, subsidiary, or
4 related entity of such person who facilitates, provides, directs, or oversees the
5 provision of the pharmacy benefit management services.

6 ~~(12)~~**(17)** "Pharmacy benefits plan" or "pharmacy benefits program" means
7 a plan or program that pays for, reimburses, covers the cost of, or otherwise provides
8 for pharmacist services to individuals who reside in or are employed in Louisiana.

9 **(18) "Provider" means an individual or entity that furnishes, provides,**
10 **dispenses, or administers one or more units of a prescription drug.**

11 ~~(13)~~**(19)** "Rebates" means **either of the following:** ~~all rebates, discounts, and~~
12 ~~other price concessions, based on utilization of a prescription drug and paid by the~~
13 ~~manufacturer or other party other than an enrollee, directly or indirectly, to the~~
14 ~~pharmacy benefit manager after the claim has been adjudicated at the pharmacy.~~
15 ~~Rebates shall include a reasonable estimate, as determined by the commissioner, of~~
16 ~~any volume-based discount or other discounts.~~

17 **(a) Negotiated price concessions including but not limited to base price**
18 **concessions, whether described as a rebate or otherwise, and reasonable**
19 **estimates of any price protection rebates and performance-based price**
20 **concessions that may accrue directly or indirectly to the health insurance issuer**
21 **or health plan, or other party on behalf of the health insurance issuer or health**
22 **plan, including a pharmacy benefit manager, during the coverage year from a**
23 **manufacturer, dispensing pharmacy, or other party in connection with the**
24 **dispensing or administration of a prescription drug.**

25 **(b) Reasonable estimates of any negotiated price concessions, fees, and**
26 **other administrative costs that are passed through, or are reasonably**
27 **anticipated to be passed through, to the health insurance issuer or health plan**
28 **and serve to reduce the health insurance issuer or health plan's liabilities for a**
29 **prescription drug.**

1 **§1867.1. PBM Duty; compensation; audits; contract and other requirements**

2 **A. PBM Duty**

3 **(1) A pharmacy benefit manager shall owe the pharmacy benefit**
4 **manager duty to any enrollee, health plan, or provider that receives pharmacy**
5 **benefit management services from the pharmacy benefit manager or that**
6 **furnishes, covers, receives, or is administered a unit of a prescription drug for**
7 **which the pharmacy benefit manager has provided pharmacy benefit**
8 **management services.**

9 **(a) Duty to enrollees. The pharmacy benefit manager duty owed to**
10 **enrollees shall include duties of care and good faith and fair dealing. The**
11 **commissioner shall adopt rules and regulations defining the scope of the duties**
12 **owed to enrollees, including by obligating pharmacy benefit managers to**
13 **provide all pharmacy benefit management services related to formulary design,**
14 **utilization management, and grievances and appeals in a transparent manner**
15 **to enrollees that is consistent with the best interest of enrollees and to disclose**
16 **all conflicts of interest to enrollees.**

17 **(b) Duty to health plans. The pharmacy benefit manager duty owed to**
18 **health plans shall include duties of care and good faith and fair dealing. The**
19 **commissioner shall adopt rules and regulations defining the scope of the duties**
20 **owed to health plans, including by obligating pharmacy benefit managers to**
21 **provide transparency to health plans about amounts charged or claimed by the**
22 **pharmacy benefit manager in a manner that is adequate to identify all instances**
23 **of spread pricing and to disclose all conflicts of interest to health plans.**

24 **(c) Duty to providers. The pharmacy benefit manager duty owed to**
25 **providers shall include duties of care and good faith and fair dealing. The**
26 **commissioner shall adopt rules and regulations defining the scope of the duties**
27 **owed to providers, including by obligating pharmacy benefit managers to**
28 **provide transparency to providers about amounts charged or claimed by the**
29 **pharmacy benefit manager in a manner that is adequate to identify all instances**

1 of spread pricing and to disclose all conflicts of interest to providers.

2 (2) Where there is a conflict between the pharmacy benefit manager
3 duties owed in accordance with this Section, the pharmacy benefit manager
4 duty owed to an enrollee shall be primary over the duty owed to any other
5 party, and the pharmacy benefit manager duty owed to a provider shall be
6 primary over the duty owed to a health plan.

7 (3) A person who is aggrieved by a violation of this Section may bring a
8 civil action before a state court of competent jurisdiction against a pharmacy
9 benefit manager.

10 B. PBM Compensation

11 (1) A pharmacy benefit manager may negotiate but shall not retain
12 rebates and fees, and shall only derive income from pharmacy benefit
13 management fees for pharmacy benefit management services provided to a
14 health insurance issuer or health plan in this state. The amount of any
15 pharmacy benefit management fees shall be set forth in the agreement between
16 the pharmacy benefit manager and the health insurance issuer or health plan.

17 (2) Pharmacy benefit management fees charged by or paid to a
18 pharmacy benefit manager from a health insurance issuer or health plan shall
19 not be directly or indirectly based or contingent upon any of the following:

20 (a) The acquisition cost or any other price metric of a drug.

21 (b) The amount of savings, rebates, or other fees charged, realized, or
22 collected by or generated based on the activity of the pharmacy benefit
23 manager.

24 (c) The amount of premiums, deductibles, or other cost-sharing or fees
25 charged, realized, or collected by the pharmacy benefit manager from patients
26 or other persons on behalf of a patient.

27 (3) Annually by December 31, each pharmacy benefit manager operating
28 in the state shall certify to the commissioner that it has fully and completely
29 complied with the requirements of this Subsection throughout the prior

1 calendar year. The certification shall be signed by the chief executive officer or
2 chief financial officer of the pharmacy benefit manager.

3 C. PBM Audits

4 (1) The commissioner and any health insurance issuer or health plan
5 contracted with a pharmacy benefit manager holding a license issued by the
6 commissioner may audit the pharmacy benefit manager once per calendar year.
7 This audit right is in addition to, and shall not be construed to limit, any other
8 audit rights authorized by law or contract. As part of any audit, the
9 commissioner, health insurance issuer, or health plan may request information
10 including but not limited to the any of following:

11 (a) All reimbursement paid to retail pharmacies, on a claim level, for all
12 customers of the pharmacy benefit manager in the state, including drug-specific
13 reimbursement, dispensing fees, all rebates, other fees, ancillary charges,
14 clawbacks, or adjustments to reimbursement.

15 (b) Any difference in reimbursement paid to affiliated pharmacies and
16 unaffiliated pharmacies, including differences in reimbursed ingredient costs
17 and dispensing fees.

18 (c) Historical claims data including ingredient cost, quantity, dispensing
19 fee, sales tax, usual and customary price, channel such as mail or retail, health
20 insurance issuer or health plan paid amount, days' supply, the amount paid by
21 the covered individual, formulary tier, acquisition cost, and any administrative
22 fee associated with the claim, as applicable.

23 (d) Aggregate rebate amounts received directly or indirectly from
24 manufacturers, including from any other entity affiliated with or related to the
25 pharmacy benefit manager that negotiates or contracts with manufacturers,
26 such as group purchasing organizations and rebate aggregators, by calendar
27 quarter.

28 (2) The pharmacy benefit manager shall provide information pursuant
29 to Paragraph (1) of this Subsection no later than thirty days of its receipt of any

1 request from the commissioner, health insurance issuer, or health plan.

2 (3) The commissioner may dictate the form in which the pharmacy
3 benefit manager will provide information in response to an audit pursuant to
4 Paragraph (1) of this Subsection.

5 (4) The pharmacy benefit manager shall certify that all information
6 submitted to the commissioner or any health insurance issuer or health plan in
7 accordance with this Subsection is accurate and complete in all material
8 respects. The certification shall be signed by the chief executive officer or chief
9 financial officer of the pharmacy benefit manager.

10 (5) The commissioner and any health insurance issuer or health plan
11 contracted with a pharmacy benefit manager holding a license issued by the
12 commissioner shall not directly or indirectly publish or otherwise disclose any
13 confidential, proprietary information, including but not limited to any
14 information that would reveal the identity of a specific health plan or
15 manufacturer, the price charged for a specific drug or class of drugs, the
16 amount of any rebates provided for a specific drug or class of drugs, or that
17 would otherwise have the potential to compromise the financial, competitive, or
18 proprietary nature of the information. Any such information shall be protected
19 as confidential and proprietary information, and is not a public record and is
20 exempt from disclosure pursuant to the Public Records Law, R.S. 44:4.1 et seq.
21 The commissioner and any health insurance issuer or health plan contracted
22 with a pharmacy benefit manager holding a license issued by the commissioner
23 shall impose the confidentiality protections and requirements of this Paragraph
24 on any agent or downstream third party that may receive or have access to this
25 information.

26 D. PBM Contract and Other Requirements

27 (1) A pharmacy benefit manager contract with a health insurance issuer
28 or health plan entered into, amended, extended, or renewed on or after January
29 1, 2027, shall do both of the following:

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 337 Original 2026 Regular Session Harris

Present law provides for definitions.

Proposed law retains present law and adds definitions for "enrollee", "healthcare service", "person", "pharmacy benefit management fee", "pharmacy benefit management service", "provider", and "related entity". Proposed law also amends the definition for "rebates".

Proposed law provides for a PBM's duty of care and good faith and fair dealing to enrollees, health plans, and providers.

Proposed law provides for PBM compensation through pharmacy benefit manager fees and prohibits a PBM from retaining rebates and fees.

Proposed law allows the commissioner of insurance and any health insurance issuer or health plan contracted with a PBM to audit the PBM once per calendar year. Proposed law further provides for information that may be requested as part of the audit and provides for the protection of confidential and proprietary information through a public records exemption.

Proposed law requires PBM contracts to specify all forms of revenue to be paid by the health insurance issuer or health plan to the pharmacy benefit manager and to acknowledge that spread pricing is not permitted.

Proposed law provides that, in addition to any other civil or criminal penalty authorized by law, a violation of proposed law is punishable by the commissioner through a civil monetary penalty not to exceed \$1,000 per claim.

Proposed law is to be implemented to regulate a PBM or health insurance issuer only to the extent permissible under applicable law.

Effective August 1, 2026.

(Amends R.S. 22:1863 and R.S. 44:4.1(B)(11); adds R.S. 22:1867.1; repeals R.S.22:1868.1)