

2026 Regular Session

SENATE BILL NO. 381

BY SENATOR BASS

HEALTH/ACC INSURANCE. Provides for pharmacy benefit managers. (gov sig)

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AN ACT

To amend and reenact R.S. 22:1865(A) and 1868.1(A) and to enact R.S. 22:1868.2, relative to pharmacy benefit managers; to prohibit PBMs from obtaining rebates on brand name drugs in exchange for not placing generic drugs on the PBM's formulary; to provide for PBM formularies; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1865(A) and 1868.1(A) are hereby amended and reenacted and R.S. 22:1868.2 is hereby enacted to read as follows:

§1865. Appeals; maximum allowable costs

A.(1) The pharmacy benefit manager shall provide a reasonable administrative appeal procedure to allow pharmacies to challenge maximum allowable costs for a specific NDC or NDCs as not meeting the requirements of this Subpart or being below the cost at which the pharmacy may obtain the NDC. Within fifteen business days after the applicable fill date, a pharmacy may file an appeal by following the appeal process as provided for in this Subpart. The pharmacy benefit manager shall respond to a challenge within fifteen business days after receipt of the challenge.

1 **(2) The administrative appeal procedure shall allow a pharmacy or**
2 **pharmacist the option to submit a consolidated appeal representing multiple**
3 **substantially similar claims.**

4 * * *

5 §1868.1. Pharmacy benefit manager rebate retention restrictions; fee disclosure

6 A.**(1)** A pharmacy benefit manager may negotiate, but shall not retain any
7 portion of rebates received from a drug manufacturer. All manufacturer rebates shall
8 be passed through to the plan sponsor as shared savings in the form of lower
9 premiums, reduced cost-sharing including reduced copays, coinsurance, or
10 deductibles for prescription drugs, or to provide broader drug coverage. The specific
11 allocation of rebates and how they are shared with plan members shall be identified
12 in the plan sponsor's plan design and contract terms.

13 **(2) A pharmacy benefit manager shall not obtain a rebate, or any other**
14 **incentive or inducement including but not limited to discounts, on a name brand**
15 **drug in exchange for not placing other name brand drugs, biosimilars, generic**
16 **drugs, or any other drug in the same class of drugs on the PBM formulary.**

17 * * *

18 **§1868.2. Pharmacy benefit manager formularies**

19 **A. As used in this Section, the following terms have the following**
20 **meanings:**

21 **(1) "Affiliated manufacturer" means a drug or biological product**
22 **manufacturer that, either directly or indirectly through one or more**
23 **intermediaries, meets one or more of the following criteria:**

24 **(a) Has an investment or ownership interest in a pharmacy benefit**
25 **manager.**

26 **(b) Shares common ownership with a pharmacy benefit manager.**

27 **(c) Has an investor or a holder of an ownership interest in a pharmacy**
28 **benefit manager.**

29 **(2) "Biological product" has the same meaning as in the Public Health**

1 Service Act, 42 U.S.C. 262.

2 (3) "Biosimilar" has the same meaning as in the Public Health Service
3 Act, 42 U.S.C. 262.

4 (4) "Interchangeable" has the same meaning as in the Public Health
5 Service Act, 42 U.S.C. 262.

6 B.(1) A pharmacy benefit manager revising the formulary of covered
7 prescription drugs at the beginning of a plan year shall provide a sixty day
8 continuity-of-care period in which the covered prescription drug that is being
9 revised from the formulary continues to be provided at the same cost for the
10 insured for a period of sixty days.

11 (2) The sixty day continuity-of-care period commences upon notification
12 to the insured by the insurer.

13 (3) This Subsection does not apply if any of the following have occurred
14 regarding the covered prescription drug:

15 (a) The prescription drug has been made available over the counter by
16 the United States Food and Drug Administration and has entered the
17 commercial market as such.

18 (b) The prescription drug has been removed or withdrawn from the
19 commercial market by the manufacturer.

20 (c) The prescription drug is subject to an involuntary recall by state or
21 federal authorities and is no longer available on the commercial market.

22 B. A pharmacy benefit manager shall not require an insured to receive
23 a drug or biological product that is manufactured by an affiliated manufacturer
24 when there is an available generically equivalent drug, or an available biological
25 product that is biosimilar to and interchangeable for the prescribed biological
26 product.

27 C. A pharmacy benefit manager shall not require an insured to receive
28 a more expensive name brand drug when less expensive name brand drugs,
29 biosimilars, generic drugs, or any other drug in the same class of drugs are

1 available.

2 D. Other than at the time of coverage renewal, a pharmacy benefit
3 manager shall not, while an insured is taking a prescription drug, do any of the
4 following:

5 (1) Remove the prescription drug from its list of covered drugs during
6 the policy year unless any of the following have occurred:

7 (a) The United States Food and Drug Administration has issued a
8 statement about the drug which calls into question the clinical safety of the
9 drug.

10 (b) The manufacturer of the drug has notified the United States Food
11 and Drug Administration of a manufacturing discontinuance or potential
12 discontinuance of the drug as required by the federal Food, Drug, and Cosmetic
13 Act, 21 U.S.C. 356.

14 (c) The drug has been approved and made available over the counter by
15 the United States Food and Drug Administration and entered the commercial
16 market as such.

17 (2) Reclassify the drug to a more restrictive drug tier or increase the
18 amount that an insured must pay for a copayment, coinsurance, or deductible
19 for prescription drug benefits, or reclassify the drug to a higher cost-sharing
20 tier during the policy year.

21 E. This Section does not prohibit the addition of prescription drugs to the
22 formulary during the policy year.

23 Section 2. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

