

2026 Regular Session

HOUSE BILL NO. 938

BY REPRESENTATIVE TURNER

INSURANCE/HEALTH: Provides relative to pharmacy benefit managers

1 AN ACT

2 To amend and reenact R.S.22:1863(11), 1868, 1868.1 and R.S. 39:1600.1(D)(1), the
3 introductory paragraph of R.S. 39:1600.1(D)(2), and R.S. 39:1600.1(D)(3), (4), (6),
4 and (11)(a); to enact R.S. 22:1868.2; and to repeal Section 5 of Act No. 474 of the
5 2025 Regular Session of the Legislature, relative to pharmacy benefit managers; to
6 provide for definitions; to provide for pharmacy reimbursement; to provide for
7 pharmacy benefit manager income restrictions and rebate pass-through; to provide
8 for disclosure requirements; to provide for commissioner access to data; to provide
9 for procurement of pharmacy benefit manager services by reverse auction; to provide
10 for implementation and effective dates; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1863(11), 1868, and 1868.1 are hereby amended and reenacted
13 and R.S. 22:1868.2 is hereby enacted to read as follows:

14 §1863. Definitions

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

16 * * *

17 (11) "Pharmacy benefit manager" has the same meaning as the term defined
18 ~~in shall have the same meaning as provided in R.S. 22:1641 and includes any~~
19 ~~person, either directly or indirectly, that provides one or more pharmacy benefit~~
20 ~~management services on behalf of an insurer or health plan, and any agent,~~

1 ~~contractor, intermediary, affiliate, subsidiary, or related entity of such person who~~
 2 ~~facilitates, provides, directs, or oversees the provision of the pharmacy benefit~~
 3 ~~management services.~~ "Pharmacy benefit manager" has the same meaning as
 4 provided in R.S. 22:1641 and applies to any person or entity, and any wholly or
 5 partially owned or controlled subsidiary, parent, or affiliate of such entity, that
 6 directly or indirectly facilitates, provides, directs, manages, administers, or oversees
 7 the provision of one or more pharmacy benefit management services. The
 8 administration or management of a prescription benefits plan includes direct or
 9 indirect participation at any stage in the negotiation or determination of prescription
 10 drug pricing ultimately assessed to an insurer's or pharmacy benefit manager's client
 11 health benefit plan.

* * *

13 §1868. ~~Local pharmacy~~ Pharmacy reimbursement; National Average Drug
 14 Acquisition Costs; appeals

15 A. Notwithstanding any provision of law to the contrary, a pharmacy benefit
 16 manager shall reimburse any pharmacy in this state, whether local or network and
 17 whether as part of a commercial or government plan, including a pharmacy benefit
 18 manager-owned, affiliated, managed, or administered retail, specialty, or mail-order
 19 pharmacy for the fulfillment of a drug prescription in an amount equal to the
 20 National Average Drug Acquisition Cost for the dispensed prescription drug
 21 ingredient plus a dispensing fee equivalent to the Louisiana Medicaid program
 22 dispensing fee. There shall be no variance in a prescription drug manager's
 23 reimbursement for such fulfillment of a drug prescription among the network and
 24 local pharmacies in the prescription drug manager's Louisiana book of business,
 25 regardless of whether such pharmacy is independent or owned, managed,
 26 administered, or affiliated, in whole or in part, directly or indirectly, by the
 27 prescription drug manager. If the National Average Drug Acquisition Cost is not
 28 available at the time the prescription drug is administered or dispensed, the pharmacy
 29 benefit manager shall reimburse the pharmacy in an amount no less than the

1 wholesale acquisition cost for the prescription drug at the time the pharmacy
2 acquired it.

3 B. No pharmacy benefit manager or person or entity acting on behalf of a
4 pharmacy benefit manager shall reimburse a pharmacy or pharmacist in this state an
5 amount less than the ~~acquisition cost for the covered drug, device, or service~~ amount
6 specified in Subsection A of this Section. ~~The provisions of this Section shall apply~~
7 ~~only to reimbursement for a contracted pharmacist or local pharmacy.~~

8 C. For purposes of this Section, the following definitions ~~shall~~ apply:

9 (1) "Acquisition cost" means the set of National Average Drug Acquisition
10 Costs, "NADAC," as calculated by the Centers for Medicare and Medicaid Services
11 and reflected in the most recently released public file.

12 (2) "Adjustment factor" means a percentage-based change to the prescription
13 drug pricing benchmark, ~~such as average wholesale price or national average drug~~
14 ~~acquisition cost,~~ specified in Subsection A of this Section, applied uniformly across
15 a class of drugs.

16 (3) "Claim payment error" means a pharmacy or pharmacist claim payment
17 amount that fails to reimburse at or above acquisition cost.

18 (4) "Reimbursement formula" means a prescription drug reimbursement
19 calculation involving an ingredient price, calculated based on a prescription drug
20 pricing benchmark plus an adjustment factor, and a professional dispensing fee.

21 D. Notwithstanding any provision of law to the contrary, effective January
22 1, 2026, a pharmacy benefit manager shall meet all of the following requirements for
23 claims submitted by any local pharmacy to a pharmacy benefit manager
24 administering claims on behalf of a health plan, ~~except for the Office of Group~~
25 ~~Benefits:~~

26 (1) ~~Adopt a reimbursement formula using either NADAC as the prescription~~
27 ~~drug pricing benchmark or, with prior written approval by the commissioner, an~~
28 ~~alternative prescription drug pricing benchmark that results in claim payment errors~~
29 ~~that are both comparable to or less than NADAC in terms of frequency and smaller~~

1 ~~than NADAC in terms of magnitude.~~ Adopt a reimbursement formula using an
2 adjustment factor that, based on claims experience data available to the pharmacy
3 benefit manager, is reasonably expected to result in a claim payment error rate of no
4 more than two percent per drug as identified by its national drug code.

5 (2) Adopt an appeal process for pharmacists to challenge claim payment
6 errors that, at a minimum, meets the following requirements:

7 (a) A network or local pharmacy contract executed by and between a
8 pharmacy benefit manager and a pharmacy located in Louisiana shall, at a minimum,
9 contain a provision expressly acknowledging that if a Louisiana pharmacy's
10 reimbursement for any covered drug or device is less than the pharmacy's acquisition
11 cost for that drug or device, the pharmacy has the right to appeal that reimbursement
12 and, if successful, receive additional payment so that the total reimbursement is
13 equal to the pharmacy's demonstrated acquisition cost. The pharmacy benefit
14 manager shall direct the pharmacy to the pharmacy benefit manager's electronic and
15 written appeal locations.

16 * * *

17 §1868.1. Pharmacy benefit manager income sources; rebate retention restrictions;
18 fee disclosure

19 A. ~~A pharmacy benefit manager may negotiate, but shall not retain any~~
20 ~~portion of rebates received from a drug manufacturer. All manufacturer rebates shall~~
21 ~~be passed through to the plan sponsor as shared savings in the form of lower~~
22 ~~premiums, reduced cost-sharing including reduced copays, coinsurance, or~~
23 ~~deductibles for prescription drugs, or to provide broader drug coverage. The specific~~
24 ~~allocation of rebates and how they are shared with plan members shall be identified~~
25 ~~in the plan sponsor's plan design and contract terms.~~ A pharmacy benefit manager
26 shall earn income exclusively from the following sources:

27 (1)(a) A flat dollar service fee. Assessment of a single, flat dollar service fee
28 for provision of pharmacy benefit management services charged on a per-person per-
29 month ("PMPM") or a per-prescription basis which shall cover all of the pharmacy

1 benefit manager's administrative, clinical, print, electronic, and related costs for
2 provision of prescription benefit management services to a client health benefit plan.
3 The service fee may vary among a pharmacy benefit manager's clients based on the
4 number of health benefit plan participants, clinical, and administrative services
5 provided, and other considerations.

6 (b) As used in this Section, "pharmacy benefit management services" means
7 negotiation of prescription drug prices, including manufacturer rebates, discounts,
8 and other price concessions, processing and payment of claims, conduct of drug
9 utilization reviews, administration of prior authorization requests, resolution of
10 patient appeals or grievances, contracting with network pharmacies, and any
11 additional services that may be defined by the commissioner.

12 (c) The single, flat dollar service fee for provision of pharmacy benefit
13 management services shall be expressed transparently in a written agreement
14 between the pharmacy benefit manager and its client health benefit plan.

15 (2) A flat dollar performance bonus. A flat dollar performance bonus
16 payment, which may be paid by a client health benefit plan to a pharmacy benefit
17 manager for meeting specified benchmarks in lowering the client health benefit
18 plan's aggregated overall drug spend over a specific period of time. A flat dollar
19 performance bonus payment, if agreed to mutually by the pharmacy benefit manager
20 and the client health benefit plan, shall be expressed transparently in a written
21 agreement between the parties.

22 B. ~~All pharmacy benefit management fees shall be disclosed in writing and~~
23 ~~set forth clearly in the contract between the pharmacy benefit manager and the~~
24 ~~insurer or health plan. Throughout the course of providing agreed-upon prescription~~
25 ~~benefit management services for client health benefit plans, a pharmacy benefit~~
26 ~~manager shall not do any of the following:~~

27 (1) Derive any income based directly on prescription drug list price,
28 acquisition cost, average wholesale cost, or any other metric for prescription drug
29 pricing or fulfillment at any stage in the drug supply chain, including but not limited

1 to prescription drug markups, up-charging, spread pricing of any kind, manufacturer-
2 derived revenues of any sort, which include but shall not be limited to price
3 protection, group purchasing organization or "GPO" retained rebates or fees of any
4 kind, aggregator administrative or any other fees charged or collected, coupon
5 compensation and patient assistance compensation fees, retained discounts and
6 rebates, and other manufacturer payments, and any other arrangements on price of
7 prescription drugs. Any prohibited pharmacy benefit manager revenue that a
8 pharmacy benefit manager may receive during the course of a pharmacy benefit
9 manager's operations in service of its Louisiana client health plans shall be
10 considered prohibited income that the pharmacy benefit manager shall pass through
11 in its entirety to the pharmacy benefit manager's Louisiana health benefit plan clients
12 on a quarterly basis.

13 (2) Design a prescription drug formulary to favor a certain branded
14 pharmaceutical or biologic over a therapeutically equivalent generic or biosimilar,
15 unless the branded pharmaceutical or biologic has a lower net acquisition cost and
16 that lower cost is reflected in a lower out-of-pocket expense for consumers.

17 (3) Charge prescription drug consumers an out-of-pocket cost share that is
18 based on a prescription drug price greater than the pharmacy benefit manager's net
19 acquisition cost of the prescription drug.

20 C. A pharmacy benefit manager may negotiate, but shall not retain any
21 portion of rebates received from a drug manufacturer. All manufacturer rebates,
22 whether accrued to a pharmacy benefit manager, a pharmacy benefit manager's
23 affiliated GPO, or any other pharmacy benefit manager owned or affiliated entity,
24 shall be passed through to the pharmacy benefit manager's healthcare plan sponsor
25 client in the manner prescribed in Subsection B(1) of this Section as shared savings
26 in the form of lower premiums, reduced cost-sharing including reduced copays,
27 coinsurance, or deductibles for prescription drugs, or to provide broader drug
28 coverage. The specific allocation of rebates and how they are shared with plan
29 members shall be identified in the plan sponsor's plan design and contract terms.

1 "Rebates" means all rebates, discounts, and other price concessions, based on
2 utilization of a prescription drug and paid by the manufacturer or other party other
3 than an enrollee, directly or indirectly, to the pharmacy benefit manager. Rebates
4 include a reasonable estimate, as determined by the commissioner, of any volume-
5 based discount or other discounts.

6 ~~B. All pharmacy benefit management fees shall be disclosed in writing and~~
7 ~~set forth clearly in the contract between the pharmacy benefit manager and the~~
8 ~~insurer or health plan.~~

9 € D. On or before December thirty-first of each calendar year, each
10 pharmacy benefit manager shall certify under oath to the commissioner of insurance
11 that it has fully complied with the provisions of this Section for the prior calendar
12 year. The certification shall be signed by the chief executive officer or chief
13 financial officer of the pharmacy benefit manager and shall be subject to audit and
14 penalty for false statements.

15 Đ E. Any violation of this Section shall be considered an unfair or deceptive
16 act or practice in the business of insurance and shall be subject to all enforcement
17 authority granted to the commissioner pursuant to this Title. In addition to any other
18 civil or criminal penalty authorized by law, a violation of this Section shall be
19 punishable by the department through a civil monetary penalty not to exceed five
20 thousand dollars per prescription drug claim, and is subject to any regulatory or
21 administrative remedy authorized by the commissioner.

22 ~~E. For purposes of this Section, the following definitions apply:~~

23 (1) ~~"Pharmacy benefit management fee" means a fee paid by an insurer or~~
24 ~~health plan to a pharmacy benefit manager for pharmacy benefit management~~
25 ~~services provided.~~

26 (2) ~~"Rebates" means all rebates, discounts, and other price concessions,~~
27 ~~based on utilization of a prescription drug and paid by the manufacturer or other~~
28 ~~party other than an enrollee, directly or indirectly, to the pharmacy benefit manager~~
29 ~~after the claim has been adjudicated at the pharmacy. Rebates shall include a~~

1 ~~reasonable estimate, as determined by the commissioner, of any volume-based~~
2 ~~discount or other discounts.~~

3 §1868.2. Pharmacy benefit manager; client written agreement disclosure

4 A. A written agreement between a pharmacy benefit manager and its client
5 health benefit plan shall contain provisions requiring pharmacy benefit manager
6 disclosure to the client all of the following information:

7 (1) Comprehensive claims-level prescription drug pricing data.

8 (2) Corresponding pharmacy benefit manager reimbursement for claims to
9 all retail, mail-order, and specialty pharmacies.

10 (3) Comprehensive report of pharmacy benefit manager revenues derived
11 from prohibited sources, as provided in R.S. 22:1868.1(B), that must be passed
12 through to the client health benefit plan.

13 B. A written agreement between the pharmacy benefit manager and its client
14 health benefit plan shall require the pharmacy benefit manager to provide the
15 information required in Subsection A of this Section within thirty days of the date
16 of a client request or at negotiated regular intervals to enable the client health benefit
17 plan to determine the pharmacy benefit manager's compliance with the provisions
18 of this Subpart and its contract with the pharmacy benefit manager. A pharmacy
19 benefit manager shall not consider the information required by this Section to be
20 proprietary. The pharmacy benefit manager shall provide the information without
21 charge to the client.

22 C. Any pharmacy benefit manager that provides services to an insurer or a
23 health benefit plan that has a substantial number of Louisiana covered participant
24 lives shall provide the commissioner transparent access to the pharmacy benefit
25 manager's claims-level pricing, income, and pharmacy reimbursement data, as
26 required by this Section and R.S. 22:1869 and 1870, for the pharmacy benefit
27 manager's entire Louisiana book of business or for any part of it that may be
28 requested by the commissioner. The pharmacy benefit manager shall provide the

1 information, which shall not be considered by the pharmacy benefit manager to be
2 proprietary, without charge, within thirty days of the commissioner's request.

3 D. The commissioner shall adopt rules, as necessary, to enforce the
4 provisions of this Section.

5 Section 2. R.S. 39:1600.1(D)(1), the introductory paragraph of 1600.1(D)(3), (4), (6),
6 and (11)(a) are hereby amended and reenacted to read as follows:

7 §1600.1. Procurement of pharmacy benefit manager services by reverse auction

8 * * *

9 D. Contracts for pharmacy benefit manager services obtained through
10 reverse auction shall comply with the following:

11 (1) Notwithstanding any provision of law to the contrary, the division of
12 administration ~~may~~ shall procure the services of a pharmacy benefit manager for the
13 administration of benefits under R.S. 42:801 et seq., in a transparent, online, and
14 dynamically competitive process and in the manner specified in this Section.

15 (2) The division of administration ~~may~~ shall procure the following products
16 and services as needed to implement this Section in accordance with this Chapter:

17 (a) A technology platform with required capabilities for conducting a PBM
18 reverse auction that shall, at a minimum, possess the capacity to:

19 * * *

20 (3) ~~If the division of administration exercises the authority provided for in~~
21 ~~this Section, it~~ The division of administration shall procure the technology platform
22 and related technology provider no later than four months in advance of the date
23 scheduled for completion of the PBM reverse auction.

24 (4) The division of administration shall not award a contract for procurement
25 of the technology platform and technology provider services to a vendor that is a
26 PBM or a vendor that is managed by or a subsidiary or affiliate of a PBM. In order
27 to prevent conflicts of interest, any consultant or advisor to the division or to the
28 office of group benefits who received remuneration for consultation or for any other
29 services related to the drafting or issuance of a request for proposals or the

1 procurement of pharmacy benefit manager services at any time between 2016 and
2 2026 shall not provide consultation to the division or to the office of group benefits
3 regarding the selection of the pharmacy benefit manager reverse auction technology
4 platform or provider or the conduct of the technology-enabled pharmacy benefit
5 manager reverse auction process.

6 * * *

7 (6)(a) With technical assistance and support provided by the technology
8 platform provider, the division of administration shall specify the terms of the
9 participant bidding agreement which shall not be modified except by specific consent
10 of the division of administration.

11 (b) The participant bidding agreement shall require qualified bidders in the
12 PBM reverse auction process, both full service PBMs and carveout service providers,
13 to comply with the terms and provisions of all PBM regulations in Title 22 of the
14 Louisiana Revised Statutes.

15 (c) Qualified specialty carveout prescription drug service providers shall
16 compete with full service PBMs on the basis of price and any other appropriate
17 criteria for award of a specialty drug contract over multiple rounds of dynamically
18 competitive reverse auction bidding.

19 (d) Qualified generic carveout prescription drug service providers shall
20 compete with full service PBMs on the basis of price and any other appropriate
21 criteria for award of a generic drug contract over multiple rounds of dynamically
22 competitive reverse auction bidding.

23 (e) The PBM reverse auction process may result in award of multiple or
24 hybrid contracts to full service and carveout prescription service providers if such
25 award is determined to be of higher value to the state.

26 * * *

27 (11)(a) The processes and procedures set forth in this Part apply to group
28 benefit plans provided pursuant to R.S. 42:801 et seq., ~~if the division of~~
29 ~~administration elects to exercise its authority to conduct a PBM reverse auction in~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

Proposed law limits PBM income to flat-fee service payments and performance bonuses, prohibits retention of manufacturer rebates or other price-based revenues, and requires all prohibited income to be passed through to client health benefit plans. Requires annual certification of compliance and authorizes penalties for violations.

Proposed law requires PBM contracts with client health benefit plans to include disclosure of claims-level pricing data, pharmacy reimbursement amounts, and prohibited revenues. Requires PBMs serving plans with substantial Louisiana enrollment to provide the commissioner access to claims-level pricing, income, and reimbursement data.

Proposed law amends procurement procedures for PBM services under R.S. 39:1600.1 to require the division of administration to procure PBM services through a reverse auction, procure a qualifying technology platform, and ensure bidder compliance with PBM regulations. Authorizes participation by full-service PBMs and carveout service providers and permits multiple or hybrid contract awards.

Proposed law prohibits any consultant or advisor to the division or to the office of group benefits who received remuneration for consultation or other services related to drafting or issuing a PBM request for proposals or procuring PBM services between 2016 and 2026 from providing consultation regarding the selection of the PBM reverse-auction technology platform or provider or the conduct of the technology-enabled reverse-auction process.

Proposed law repeals §5 of Act No. 474 of the 2025 Regular Session.

Proposed law provides for implementation on October 1, 2026, and for standard effective-date provisions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1863(11), 1868, and 1868.1 and R.S. 39:1600.1(D)(1), the introductory paragraph of 1600.1(D)(2), and 1600.1(D)(3), (4), (6), and (11)(a); Adds R.S. 22:1868.2; Repeals Section 5 of Act No. 474 of the 2025 Regular Session)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Revise the effective date reference by changing "2026" to "2025" to ensure statutory accuracy.
2. Remove redundant language from proposed law to maintain consistency with existing statutory format.
3. Implement a conflict-of-interest provision that prohibits any consultants or advisors who were compensated for PBM procurement activities between 2016 and 2025, from engaging in the selection process or operation of the PBM reverse auction platform.
4. Clarifies statutory references of prior legislative acts to repeal Section 5 of Act No. 474 of the 2025 Regular Session.
5. Make technical changes.