ENROLLED

2026 Regular Session

HOUSE BILL NO. 870

BY REPRESENTATIVE TURNER

AN ACT

To amend and reenact R.S. 44:4.1(B)(11) and to enact R.S. 22:1060.9, relative to health insurance; to establish requirements for formulary placement and cost-sharing obligations for specific generic drugs and biosimilars; to prohibit certain utilization management practices; to provide for certain notices; to provide definitions; to provide for confidentiality; to provide for exception from public records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1060.9 is hereby enacted to read as follows:

§1060.9. Formulary placement; coverage requirements for certain generic drugs and biosimilars

A. For purposes of this Section, the following terms have the meanings ascribed to them in this Subsection:

(1) "Biosimilar" means any biological product that is licensed under 42 U.S.C. 262(k) and has been listed in the United States Food and Drug Administration's (FDA) Database of Licensed Biological Products ("Purple Book") as biosimilar to or interchangeable with a reference biological product.

(2) "Brand drug" means a drug for which an application has been approved under 21 U.S.C. 355(c), or a biological product, other than a biosimilar, that is licensed under 42 U.S.C. 262(a).

(3) "Formulary" means a list of prescription drugs that is developed by a Pharmacy and Therapeutics (P&T) Committee or other clinical and pharmacy experts and represents a health plan's prescription drugs approved for use.

(4) "Generic drug" means a drug for which an application has been approved under 21 U.S.C. 355(j) and which has been listed in the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations

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("Orange Book") as therapeutically equivalent to a reference drug, even if the manufacturer of such drug applies a trade name to the drug.

(5) "Net cost calculation" means the wholesale acquisition cost minus all rebates, discounts, and fees.

(6) "Reference listed drug" is the listed drug identified by the United States Food and Drug Administration as the drug product upon which an applicant relies in seeking approval of its application submitted under 21 U.S.C. 355(j).

(7) "Reference product" is a single biological product, licensed by the United States Food and Drug Administration under 42 U.S.C. 262(a), against which a proposed biosimilar or interchangeable product is compared, and listed as a reference product in the United States Food and Drug Administration's Database of Licensed Biological Products ("Purple Book").

(8) "Wholesale acquisition cost" has the same definition as "wholesale acquisition cost" in 42 U.S.C. 1395w-3a(c)(6)(B).

B. If a generic drug is approved and marketed pursuant to Paragraph (A)(1) of this Section, and has a wholesale acquisition cost that is lower than the wholesale acquisition cost of its reference listed drug and any other drug sharing its reference listed drug on the generic drug's initial date of marketing, a health insurance issuer that provides coverage for the reference listed drug on that date shall do all of the following:

(1)(a) Immediately make the generic drug available on the plan formulary on a tier with more favorable cost-sharing, including actual out-of-pocket costs, than the cost-sharing applicable to the reference listed drug.

(b) Not impose any prior authorization, step therapy, or any other limitation on coverage of a generic drug for which formulary placement is required in accordance with this Paragraph that makes it more difficult for an enrollee to obtain coverage of or access to the generic drug than the reference listed drug.

(c) Not impose any restriction on the pharmacy through which an enrollee may obtain the generic drug that makes it more difficult for an enrollee to obtain coverage of or access to the generic drug than the reference listed drug.

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(2) The requirements of this Subsection shall remain in effect if the wholesale acquisition cost of the generic drug remains lower than the wholesale acquisition cost of the reference listed drug.

C. If a biosimilar is licensed and marketed pursuant to Paragraph (A)(3) of this Section and has a wholesale acquisition cost that is lower than the wholesale acquisition cost of its reference product and any other biosimilar sharing its reference product on the biosimilar's initial date of marketing, a health insurance issuer that provides coverage for the reference product on that date shall do all of the following:

(1)(a) Immediately make at least one biosimilar available on the plan formulary on a tier with more favorable cost-sharing, including actual out-of-pocket costs, than the cost-sharing applicable to the reference product.

(b) Not impose any prior authorization, step therapy, or any other limitation on coverage of the biosimilar drug for which formulary placement is required in accordance with this Paragraph that makes it more difficult for an enrollee to obtain coverage of or access to the biosimilar drug than the reference listed drug.

(c) Not impose any restriction on the pharmacy through which an enrollee may obtain the biosimilar that makes it more difficult for an enrollee to obtain coverage of or access to the biosimilar than to the reference product.

(2) The requirements of this Subsection shall remain in effect if the wholesale acquisition cost of the biosimilar remains lower than the wholesale acquisition cost of the reference product.

D.(1) A health insurance issuer may utilize net cost calculation in lieu of wholesale acquisition cost for purposes of determining placement on the drug formulary pursuant to this Section.

(2) A health insurance issuer shall notify the commissioner in writing within thirty days if the health insurance issuer if the health insurance issuer opts to utilize the net cost calculation for a branded prescription drug in a drug formulary.

(3) For each National Drug Code (NDC), the notification shall provide the following information for both the branded prescription drug and any available generic or biosimilar:

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(a) Wholesale acquisition cost.

(b) Net cost.

(4) The health insurance issuer shall provide the branded prescription drug cost-sharing amount and the cost-sharing amount if the generic or biosimilar was added to the drug formulary at a more favorable coverage tier.

(5) The health insurance issuer shall include in the notification how the issuer is utilizing the rebate provided by the manufacturer of the branded prescription drug.

E.(1) To ensure transparency regarding formulary decisions, the commissioner shall provide an annual report, providing a summary of the notifications pursuant to this Section, including an analysis of the overall impact on patient costs.

(2) All information and data obtained by the department pursuant to this Subpart that is not otherwise publicly available is considered to be a trade secret, confidential, and proprietary, is not subject to disclosure pursuant to the Public Records Law, R.S. 44:1 et seq., and shall not be disclosed directly or indirectly.

(3) The Department of Insurance shall impose the confidentiality protections of this Section on any third party that may receive or otherwise have access to this information.

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

§4.1. Exceptions

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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, 550.22, 550.29, 550.30, 571, 572, 572.1, 572.2, 574, 601.3, 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), 976, 1008, 1019.2, 1060.9, 1203, 1276, 1460, 1464, 1466, 1483.1, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, 1660.7, 1723, 1796, 1801, 1808.3, 1869, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085, 2091, 2293, 2303, 2508

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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