SLS 18RS-698

REENGROSSED

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.

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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	<u>§1657.1. Pharmacy benefit manager rebate transparency report</u>
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	<u>enrollees that did not pass through to the health benefit plan or health insurance</u>
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 shal
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	(d) The highest, lowest, and mean aggregate retained rebate percentage.
2	(2) The transparency report shall be made available in a form that does
3	not disclose the identity of a specific health benefit plan, the prices charged for
4	specific drugs or classes of drugs, or the amount of any rebates provided for
5	specific drugs or classes of drugs.
6	(3) Within ten days of receipt, the Department of Insurance shall publish
7	the transparency report on the department's website in a location designated
8	for pharmacy benefit manager information pursuant to R.S. 22:1657(B).
9	(4) The pharmacy benefit manager and the Department of Insurance
10	shall not publish or disclose any information that would reveal the identity of
11	a specific health benefit plan, the prices charged for a specific drug or class of
12	drugs, or the amount of any rebates provided for a specific drug or class of
13	drugs. Any such information shall be protected from disclosure as confidential
14	and proprietary information and shall not be regarded as public record under
15	<u>R.S. 4:44.1 et seq.</u>
16	(5) Not less than thirty days prior to a drug price increase of fifty percent
17	or greater, a pharmaceutical drug manufacturer shall notify the commissioner
18	of insurance by electronic mail of any such change.
19	D. The commissioner of insurance shall have enforcement authority over
20	this Section. Among other enforcement mechanisms, the commissioner of
21	insurance may, after a hearing, suspend or revoke a pharmacy benefit
22	manager's license for failure to comply with the requirements of this Section.
23	Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:
24	§4.1. Exceptions
25	А.
26	* * *
27	B. The legislature further recognizes that there exist exceptions, exemptions,
28	and limitations to the laws pertaining to public records throughout the revised
29	statutes and codes of this state. Therefore, the following exceptions, exemptions, and

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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, <u>1675.1,</u> 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

<u>Present law</u> requires pharmacy benefit managers to be licensed by LDI. <u>Proposed law</u> 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.

<u>Proposed law</u> 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. <u>Proposed law</u> requires LDI to publish the transparency report within ten days of receipt from the pharmacy benefit manager.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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 <u>proposed law</u> applies to pharmacy benefit managers participating in the Medicaid program.

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