

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 applicability to the
7 Medicaid program; to provide for confidentiality; 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.**

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 D. Notwithstanding any provision of law to the contrary, the provisions
10 of this Section shall apply to any pharmacy benefit manager that has a contract
11 with the Louisiana Department of Health or is a subcontractor with a managed
12 care organization that has a contract with the Louisiana Department of Health
13 for the provision of services in the Medicaid program.

14 §1657.1. Pharmacy benefit manager rebate transparency report

15 A. Each pharmacy benefit manager licensed by the commissioner of
16 insurance shall submit an annual transparency report as a condition of
17 maintaining licensure.

18 B. As used in this Section, the following definition shall apply:

19 (1) "Aggregate retained rebate percentage" means the percentage,
20 calculated for each prescription drug for which a pharmacy benefit manager
21 receives rebates under a particular health benefit plan expressed without
22 disclosing any identifying information regarding the health benefit plan,
23 prescription drug, or therapeutic class. The calculation shall be based upon the
24 aggregate rebates that the pharmacy benefit manager received during the prior
25 calendar year from a pharmaceutical manufacturer related to utilization of the
26 manufacturer's prescription drug by health benefit plan enrollees that did not
27 pass through to the health benefit plan or health insurance issuer divided by the
28 aggregate rebates that the pharmacy benefit manager received during the prior
29 calendar year from a pharmaceutical manufacturer related to utilization of the

1 manufacturer's prescription drug by health benefit plan enrollees.

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

9 (3) "Health insurance issuer" means any entity that offers health
10 insurance coverage through a plan, policy, or certificate of insurance subject to
11 state law that regulates the business of insurance. "Health insurance issuer"
12 shall also include a health maintenance organization, as defined and licensed
13 pursuant to Subpart I of Part I of Chapter 2 of this Title.

14 (4) "Rebates" means all rebates, discounts, and other price concessions,
15 based on utilization of a prescription drug and paid by the manufacturer or
16 other party other than an enrollee, directly or indirectly, to the pharmacy
17 benefit manager after the claim has been adjudicated at the pharmacy. Rebates
18 include a reasonable estimate of any volume-based or other discounts.

19 C.(1) Beginning February 1, 2019, and annually thereafter, each licensed
20 pharmacy benefit manager shall submit a transparency report containing data
21 from the prior calendar year to the department. The transparency report shall
22 contain the following information for each of the pharmacy benefit manager's
23 contractual or other relationships with a health benefit plan or health insurance
24 issuer:

25 (a) The aggregate amount of all rebates that the pharmacy benefit
26 manager received from pharmaceutical manufacturers.

27 (b) The aggregate administrative fees that the pharmacy benefit manager
28 received.

29 (c) The aggregate rebates that the pharmacy benefit manager received

1 from pharmaceutical manufacturers and did not pass through to the health
2 benefit plan or health insurance issuer.

3 (d) The highest, lowest, and mean aggregate retained rebate percentage.

4 (2) The transparency report shall be made available in a form that does
5 not disclose the identity of a specific health benefit plan, the prices charged for
6 specific drugs or classes of drugs, or the amount of any rebates provided for
7 specific drugs or classes of drugs.

8 (3) Within ten days of receipt, the Department of Insurance shall publish
9 the transparency report on the department's website in a location designated
10 for pharmacy benefit manager information pursuant to R.S. 22:1657(B).

11 (4) The pharmacy benefit manager and the Department of Insurance
12 shall not publish or disclose any information that would reveal the identity of
13 a specific health benefit plan, the prices charged for a specific drug or class of
14 drugs, or the amount of any rebates provided for a specific drug or class of
15 drugs. Any such information shall be protected from disclosure as confidential
16 and proprietary information and shall not be regarded as public record under
17 R.S. 4:44.1 et seq.

18 D. The commissioner of insurance shall have enforcement authority over
19 this Section. Among other enforcement mechanisms, the commissioner of
20 insurance may, after a hearing, suspend or revoke a pharmacy benefit
21 manager's license for failure to comply with the requirements of this Section.

22 E. Notwithstanding any provision of law to the contrary, the provisions
23 of this Section shall apply to any pharmacy benefit manager that has a contract
24 with the Louisiana Department of Health or is a subcontractor with a managed
25 care organization that has a contract with the Louisiana Department of Health
26 for the provision of services in the Medicaid program.

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

28 §4.1. Exceptions

29 A.

