

2024 Regular Session

HOUSE BILL NO. 704

BY REPRESENTATIVES CHASSION, ADAMS, BAYHAM, CARPENTER, DOMANGUE, FISHER, GREEN, KNOX, MARCELLE, MENA, NEWELL, OWEN, STAGNI, WALTERS, AND YOUNG

PHARMACIES: Creates the pharmacy benefit managers quality incentive program

1 AN ACT

2 To amend and reenact R.S. 22:1860.2(A)(introductory paragraph) and to enact R.S.  
3 22:1657.2, relative to pharmacy benefit manager quality incentive pilot programs;  
4 to provide for a quality incentive pilot program to be established by licensed  
5 pharmacy benefit managers; to provide for legislative findings; to provide for  
6 utilization of the expertise of the colleges of pharmacy; to provide for minimum  
7 requirements of a program; to provide for reporting to the commissioner of  
8 insurance; to provide for voluntary participation by pharmacies; to provide for  
9 program parameters; to provide for a prohibition on certain fees; to provide for  
10 definitions; to provide relative to certain pharmacy claims fees; to provide for an  
11 effective date; to provide for a termination date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:1860.2(A)(introductory paragraph) is hereby amended and  
14 reenacted and R.S. 22:1657.2 is hereby enacted to read as follows:

15 §1657.2. Pharmacy benefit manager quality incentive pilot program

16 A. The legislature finds and declares all of the following:

17 (1) Louisiana residents continue to face health challenges according to the  
18 2022 Louisiana Department of Health's Health Report Card which shows that  
19 Louisiana ranks forty-second in the country for cardiovascular disease, forty-seventh  
20 in percentage of adults with obesity, forty-sixth in percentage of adults with diabetes,

1 forty-ninth in rate of low birthweight babies, forty-eighth for sexually transmitted  
2 infections, forty-third for substance use disorder, and nearly ten percent of  
3 Louisiana's adult population has asthma which results in costly emergency  
4 department visits. These chronic diseases and conditions put a strain on the overall  
5 wellness of Louisiana residents.

6 (2) The intent of the legislature is to improve the health outcomes of  
7 Louisiana residents and one way to address these challenges is a quality incentive  
8 pilot program, hereinafter referred to as "quality incentive program", established by  
9 licensed pharmacy benefit managers with a focus on increasing patient awareness,  
10 expanding pharmacy education, medication adherence, and cost avoidance.

11 (3) In conjunction with health insurance plans, pharmacy benefit managers  
12 administer pharmacy benefit plans for Louisiana residents through a contracted  
13 network of pharmacies throughout the state. Pharmacy benefit managers support  
14 access to quality prescription drug coverage, which enables better health outcomes,  
15 secures savings, and promotes competition.

16 (4) Local pharmacists perform direct patient care activities such as  
17 counseling, medication management, condition monitoring, and preventative care  
18 screenings.

19 (5) There is an opportunity to improve the health outcomes of Louisiana  
20 residents served by pharmacy benefit managers and local pharmacies through  
21 strengthening the existing relationship between pharmacy benefit managers and local  
22 pharmacies with a focus on the best health outcomes for the patient. This can be  
23 achieved by creating an affordable future for prescription drugs by promoting  
24 pharmacy networks, full availability and use of electronic pharmacy benefit tools and  
25 offerings, patient-focused pharmacy care, and advance use of real-world evidence  
26 to protect patient safety.

27 (6) To meet these goals and achieve the desired results, the legislature shall  
28 implement a Louisiana-specific quality incentive program that prioritizes patient  
29 health and rewards pharmacists who participate.

1           B.(1) Each pharmacy benefit manager licensed by the commissioner shall  
2           develop a program in consultation with the plan sponsor to provide incentive  
3           payments to eligible independent network pharmacies for meeting benchmarks or  
4           complying with strategies aimed at improving the health of Louisiana residents  
5           covered by the pharmacy benefit manager. The quality incentive program should  
6           focus on the health concerns most affecting Louisiana residents and include but not  
7           be limited to encouraging the use of new technology and obtaining education on best  
8           practices.

9           (2) A pharmacy benefit manager may consult with the University of  
10          Louisiana at Monroe College of Pharmacy and the Xavier College of Pharmacy to  
11          design a quality incentive program, educate pharmacy students and pharmacists  
12          about the value of electronic pharmacy benefit tools, and provide for other  
13          educational components of the role of the pharmacist in patient healthcare.

14          (3) Incentive programs may be designed to reflect the unique needs of the  
15          state as designated by each of the nine Louisiana Department of Health regions.

16          (4) Each pharmacy benefit manager shall create a toolkit for participating  
17          independent network pharmacies that includes the option to display signage that the  
18          pharmacy is a quality incentive program participant.

19          (5) A pharmacy benefit manager, in consultation with the plan sponsor, may  
20          implement educational and training components into the quality incentive program  
21          to educate pharmacists on best practices to reduce or eliminate adverse drug events  
22          including but not limited to dispensing errors and drug interactions. In determining  
23          success of any educational or training component included in the quality incentive  
24          program, the pharmacy benefit manager may request necessary reporting from the  
25          pharmacist to verify eligibility to receive the designated quality incentive payment  
26          available pursuant to this Paragraph.

27          C.(1) On or before October 1, 2024, and no later than October first of each  
28          year thereafter, each pharmacy benefit manager shall report to the commissioner the  
29          details of its program including but not limited to the quality incentive criteria, how

1 those criteria are anticipated to improve the quality of care for the individuals  
2 covered by the pharmacy benefit manager, how costs will be reduced, the eligibility  
3 criteria for participating independent network pharmacies, what efforts will be made  
4 to invite independent network pharmacies to participate, the number of pharmacies  
5 enrolled or planning to enroll in its quality incentive program, and the aggregate  
6 amount of incentive payments expected to be made to the pharmacies participating  
7 in the quality incentive program.

8 (2) Each pharmacy benefit manager shall implement the quality incentive  
9 program as reported to the commissioner pursuant to Paragraph (1) of this  
10 Subsection on January first of the following year.

11 D. On or before April 1, 2025, and no later than April first of each year  
12 thereafter, each pharmacy benefit manager shall report to the commissioner the  
13 results of its quality incentive criteria from the previous calendar year. The report  
14 shall contain at a minimum an aggregate-level description of the impact of the  
15 program on the health of Louisiana residents, the actual cost savings, the number of  
16 pharmacies enrolled or planning to enroll in its quality incentive program, and the  
17 amount of incentive payments actually made to pharmacies participating in the  
18 quality incentive program. The pharmacy benefit manager shall not include any  
19 personally identifiable information or any details concerning the health or treatment  
20 of a particular individual.

21 E.(1)(a) The pharmacy benefit manager quality incentive program is strictly  
22 voluntary and limited only to network pharmacies.

23 (b) An independent network pharmacy shall not be penalized for declining  
24 to participate in a quality incentive program nor incur any charge, fee, or payment  
25 reduction for its participation or nonparticipation in a quality incentive program.

26 (c) The opportunity to participate in a pharmacy benefit manager's quality  
27 incentive program shall be separate and apart from the contract entered into between  
28 the pharmacist and the pharmacy benefit manager to be in the pharmacy benefit  
29 manager's network. The terms of participation including but not limited to

1 incentives, outcomes, deliverables, and all expenses or obligations, if applicable, of  
2 the pharmacy shall be fully disclosed by the pharmacy benefit manager prior to the  
3 pharmacy agreeing to participate in the quality incentive program. Once a pharmacy  
4 agrees to participate in a quality incentive program, terms of participation shall be  
5 executed in a contract addendum or related contractual supplement. A pharmacy may  
6 be in the pharmacy benefit manager's network and not participate in the quality  
7 incentive program, but shall be in the network in order to be eligible to participate.

8 (d) Terms of reimbursement for the acquisition and dispensing of  
9 prescription drugs are not part of the quality incentive program.

10 (e) Failure of a participating independent network pharmacy to meet the  
11 terms of the quality incentive program may make it ineligible for incentive payments  
12 and may make it ineligible to continue participating in the quality incentive program.  
13 However, failure of the independent network pharmacy to meet the terms and  
14 benchmarks of the quality incentive program shall not result in penalties imposed  
15 upon the independent network pharmacy.

16 (f) The pharmacy benefit manager shall not use direct or indirect  
17 remuneration or clawbacks as a penalty or means of implementing the terms agreed  
18 upon with the pharmacy as participation in the quality incentive program.

19 (2) Implementation of the quality incentive program shall be considered a  
20 proactive plan design component aimed at improving health outcomes with the  
21 ultimate goal of reducing overall costs by creating a healthier population. In  
22 conducting plan design, the pharmacy benefit manager shall advise the plan sponsor  
23 on recommended incentive program components that have the greatest opportunity  
24 to achieve savings and slow the customary rate of premium growth over a reasonable  
25 amount of time in which improved health outcomes could realistically be achieved.  
26 Any financial analysis conducted by a pharmacy benefit manager pursuant to this  
27 Paragraph in order to recommend specific quality incentive payments to participating  
28 pharmacists shall be in addition to regular review and analysis of appropriate  
29 existing relationships with independent network pharmacies.

1                   (3) Nothing provided for in this Section shall be construed to expand the  
 2 scope of practice of a participating pharmacist.

3                   F. For the purposes of this Section, "independent network pharmacy" means  
 4 a pharmacy operating within the state which meets all of the following criteria:

- 5                   (1) Is a member of a pharmacy benefit manager's network.
- 6                   (2) Is considered to be in good standing by the pharmacy benefit manager.
- 7                   (3) Is under common ownership with not more than two other pharmacies.

8                   G.(1) In accordance with the provisions of R.S. 22:1016, this Section does  
 9 not apply to a pharmacy benefit manager that is contracted with the Louisiana  
 10 Department of Health to provide pharmacy benefit manager services for the  
 11 Louisiana Medicaid Program or a pharmacy benefit manager that is a subcontractor  
 12 of a Medicaid managed care organization that is contracted with the Louisiana  
 13 Department of Health to provide managed care for the Louisiana Medicaid Program.

14                   (2) On or before October 1, 2024, and no later than October first of each  
 15 year thereafter, a pharmacy benefit manager claiming an exemption pursuant to this  
 16 Subsection shall submit written notice to the commissioner stating that it does not  
 17 administer pharmacy benefit manager services for Louisiana residents other than  
 18 individuals enrolled in the Louisiana Medicaid Program.

19                   (3) If a pharmacy benefit manager claims an exemption pursuant to this  
 20 Subsection and subsequently begins providing pharmacy benefit manager services  
 21 to Louisiana residents other than individuals enrolled in the Louisiana Medicaid  
 22 Program, it shall immediately begin complying with provisions of this Section.

23                   H. The provisions of this Section shall terminate on January 1, 2028.

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25                   §1860.2. Certain pharmacy ~~claims~~ fees prohibited

26                   A. A health insurance issuer or a pharmacy benefit manager shall not directly  
 27 or indirectly charge or hold a pharmacist or pharmacy responsible for any fee ~~related~~  
 28 ~~to a claim~~ that is any of the following:

29   \*       \*       \*

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

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 704 Reengrossed

2024 Regular Session

Chassion

**Abstract:** Provides a quality incentive pilot program for pharmacy benefit managers.

Present law provides for the licensing of pharmacy benefit managers (PBMs) by the commissioner of insurance (commissioner).

Proposed law (R.S. 22:1657.2) retains present law and requires each PBM licensed by the commissioner to develop a quality incentive pilot program in consultation with a plan sponsor to provide incentive payments to eligible independent network pharmacies for meeting benchmarks or complying with strategies aimed at improving the health of La. residents covered by the PBM.

Proposed law provides that the quality incentive pilot program should focus on the health concerns most affecting La. residents, may be designed in consultation with La. colleges of pharmacy, and may reflect the unique needs of the state as designated by each of the nine La. Dept. of Health regions.

Proposed law requires a PBM to report to the commissioner, on or before Oct.1, 2024, the details of its program and provides minimum reporting requirements. Further requires the program to be implemented on the following Jan. 1, 2025.

Proposed law requires, on or before April 1st of the following year, a PBM to report to the commissioner the results of its quality incentive criteria from the previous calendar year. Proposed law further provides for the minimum content of the report.

Proposed law provides that the PBM quality incentive program is strictly voluntary and prohibits an independent network pharmacy from incurring any penalty for participation or nonparticipation.

Proposed law requires a PBM to disclose to a pharmacy all terms of a pharmacy's participation, including but not limited to incentives and expenses, prior to a pharmacy agreeing to participate. Further prohibits a PBM from using direct or indirect remuneration as a penalty or means of implementing the terms agreed upon with the pharmacy regarding participation.

Proposed law provides for additional parameters of the PBM quality incentive program, including the use of education and training programs.

Present law exempts Medicaid managed care organizations from certain provisions of the La. Insurance Code. Proposed law retains present law and provides that Medicaid managed care organization PBMs are exempt from proposed law.

Proposed law requires exempt PBMs to submit a notice of exemption to the commissioner and provides that the PBM is no longer exempt if it renders services to La. residents who are not enrolled in the Medicaid program.

Proposed law does not expand the scope of practice of a participating pharmacist.

Proposed law defines "independent network pharmacy" as a pharmacy operating within the state which is a member of a PBM's network, considered to be in good standing by the PBM, and under common ownership with not more than two other pharmacies.

Proposed law (R.S. 22:1657.2) terminates on Jan. 1, 2028.

Present law (R.S. 22:1860.2) prohibits the charge of certain pharmacy claim fees. Proposed law modifies present law to authorize the charge of such pharmacy claim fees.

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

(Amends R.S. 22:1860.2(A)(intro. para.); Adds R.S. 22:1657.2)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Specify the quality incentive program of proposed law as a pilot program.
2. Prohibit a pharmacy from being penalized or incurring a financial penalty regardless of participation in a quality incentive program.
3. Require a PBM to disclose to a pharmacy all terms of a pharmacy's participation, including but not limited to incentives and expenses, prior to the pharmacy agreeing to participate in a quality incentive program.
4. Prohibit a PBM from using direct or indirect remuneration or clawbacks as a penalty or means of implementing the terms agreed upon with the pharmacy regarding participation in a quality incentive program.
5. Terminate proposed law (R.S. 22:1657.2) on Jan. 1, 2028.
6. Modify present law (R.S. 22:1860.2) to authorize the charge of certain pharmacy claim fees.
7. Make technical changes.