
DIGEST

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SB 387 Reengrossed

2026 Regular Session

Bass

Present law provides for definitions.

Proposed law retains present law and adds definitions for "enrollee", "healthcare service", "net acquisition cost", "person", "pharmacy benefit management fee", "pharmacy benefit management service", "provider", and "related entity". Proposed law also amends the definition for "rebates".

Proposed law provides for a PBM's fiduciary duty of care and good faith and fair dealing to enrollees.

Proposed law provides for PBM compensation through pharmacy benefit manager flat dollar fees and flat dollar performance bonuses on a per-prescription or per-event basis and prohibits a PBM from retaining rebates and fees.

Proposed law allows the commissioner of insurance and any health insurance issuer or health plan contracted with a PBM to audit the PBM once per calendar year. Proposed law further provides for information that may be requested as part of the audit and provides for the protection of confidential and proprietary information through a public records exemption, including the books and records from any entity in the PBM's vertical corporate structure.

Proposed law clarifies that the commissioner is not prohibited from disclosing information to a Prescription Drug Affordability Board, provided such information is subject to applicable confidentiality protections.

Proposed law requires PBM contracts to specify all forms of revenue to be paid by the health insurance issuer or health plan to the pharmacy benefit manager and to acknowledge that spread pricing is not permitted.

Proposed law provides that, in addition to any other civil or criminal penalty authorized by law, a violation of proposed law is punishable by the commissioner through a civil monetary penalty of \$25,000 for each and every act or violation, with no aggregate penalty maximum.

Proposed law further provides that if a violation is not corrected within 30 days after notice of the violation is received by the PBM, the commissioner must suspend or revoke the pharmacy benefit manager's license.

Proposed law is to be implemented to regulate a pharmacy benefit manager or health insurance issuer only to the extent permissible under applicable law.

Present law allows a PBM to audit pharmacy claims. Proposed law limits to the audit to claims filed within the 12 months prior to the start of the audit.

Proposed law allows a pharmacy to submit a consolidated appeal to a PBM of substantially similar claims.

Proposed law prohibits a PBM from using its formulary to obtain inducements, favor certain drugs over substantially similar drugs with a lower cost, charge more than the PBM's net acquisition cost of a drug, charge more than the PBM's net acquisition cost of a drug, or ban the use of certain pharmacies by an insured.

Proposed law provides for a 60-day continuity of care for an enrollee when a formulary is changed and removes a drug prescribed to an enrollee, provided the drug is maintained in the same formulary tier and cost-sharing structure.

Proposed law provides that proposed law is not applicable to ERISA plans.

Proposed law applies to any new policy, contract, program, or health coverage plan issued on or after January 1, 2028. Proposed law further provides that policies, contracts, programs, or health coverage plans in effect prior to that date must conform to the provisions of proposed law on or before the renewal date, but no later than January 1, 2029.

Effective January 1, 2028.

(Amends R.S. 22:1856.1(B)(2)(a), 1863, 1865(A), and R.S. 44:4.1(B)(11); Adds R.S. 22:1867.1 and 1868.2; Repeals R.S.22:1868.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Limits a PBM pharmacy audit to claims submitted not more than 12 months prior to the audit.
2. Allows for consolidated appeals.
3. Provides that a PBM owes a fiduciary duty to enrollees, pharmacies, and plans.
4. Prohibits a PBM from obtaining an inducement on a name brand drug in exchange for not placing other drugs of the same class on the PBM formulary.
5. Prohibits a PBM from favoring certain drugs over others on a formulary.
6. Prohibits a PBM from charging a cost greater than net acquisition cost.
7. Prohibits a PBM from using its formulary to ban the use of certain pharmacies.
8. Prohibits a PBM or GPO from retaining rebates and fees, requiring them to be passed through to the plan.
9. Allows a PBM to earn income only from a flat dollar fee.
10. Allows a PBM to receive a flat dollar performance bonus.
11. Allows the commissioner of insurance to examine the books or records of any entity in a PBM's corporate structure.
12. Requires continuity of care for enrollees when a PBM formulary is changed.
13. Provides that proposed law becomes effective if SB 401 is enacted.
14. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Provides that PBMs do not owe a fiduciary duty to plans or pharmacies.
2. Provides that the provisions of proposed law are not applicable to ERISA plans.
3. Makes technical changes.

Summary of Amendments Adopted by House

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

1. Define "net acquisition cost".
2. Clarify that pharmacy benefit manager service fees may be assessed on a per-prescription or per-event basis, in addition to existing structures.
3. Authorize the commissioner of insurance to share confidential pharmacy benefit manager information with a Prescription Drug Affordability Board established pursuant to present law and proposed law.
4. Adjust a statutory reference from 2027 to 2028, effectively delaying implementation of the affected provision by one year.
5. Refine formulary language to require that comparable drugs be offered within the same formulary tier and cost-sharing structure.
6. Establish a phase-in by applying proposed law to new plans starting January 1, 2028, and requiring existing plans to comply by renewal, no later than January 1, 2029.
7. Make technical changes.