SLS 21RS-434 **ENGROSSED**

2021 Regular Session

SENATE BILL NO. 191

BY SENATOR CLOUD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE POLICIES. Provides relative to coverage of certain physician-administered drugs and related services. (gov sig)

AN ACT

To enact Subpart A-3 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1020.51 through 1020.53, relative to provider-administered drugs; to provide for legislative intent; to provide for definitions; to provide for access; to provide for payment to participating health care providers; to provide with respect to penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart A-3 of Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 22:1020.51 through 1020.53, is hereby enacted to read as follows:

SUBPART A-3. PROTECTING PATIENT ACCESS TO PHYSICIAN-ADMINISTERED MEDICATIONS

§1020.51. Purpose and intent

The purpose and intent of this Part is to ensure patient access to physician-administered drugs and related services furnished to persons covered under a health insurance contract. This Part shall ensure that health insurance issuers do not interfere with patients' freedom of choice with respect to

providers furnishing physician-administered drugs and ensure that patients receive safe and effective drug therapies.

§1020.52. Definitions

For purposes of this Part, the following words shall have the following meanings:

(1) "Covered person" shall have the same meaning as provided in R.S. 22:1019.1.

(2) "Health insurance issuer" shall have the same meaning as provided in R.S. 22:1019.1.

(3) "Participating provider" shall have the same meaning as provided in R.S. 22:1019.1. For purposes of this Subpart, "participating provider" shall include any clinic, hospital outpatient department or pharmacy under the common ownership or control of the participating provider.

(4) "Physician-administered drug" means any prescription drug as defined in R.S. 22:1060.1, other than a vaccine, that requires administration by a provider and is not approved as a self-administered drug.

§1020.53. Physician-administered drugs; access; payment

A. A health insurance issuer, pharmacy benefit manager, or their agent shall not refuse to authorize, approve, or pay a participating provider for providing covered physician-administered drugs and related services to covered persons. A health insurance issuer shall not condition, deny, restrict, refuse to authorize or approve, or reduce payment to a participating provider for a physician-administered drug when all criteria for medical necessity are met, because the participating provider obtains physician-administered drugs from a pharmacy that is not a participating provider in the health insurance issuer's network. The drug supplied shall meet the supply chain security controls and chain of distribution set by the federal Drug Supply Chain Security Act, Pub. L. 113-54, as amended. The payment shall be at the rate set forth in the health insurance issuer's agreement with the participating provider applicable

to such drugs, or if no such rate is included in the agreement, then at the wholesale acquisition cost. A health insurance issuer, pharmacy benefit manager, or their agent, shall not require a covered person pay an additional fee, or any other increased cost-sharing amount in addition to applicable cost-sharing amounts payable by the covered person as designated within the benefit plan to obtain the physician-administered drug when provided by a participating provider. However, nothing in this Subpart shall prohibit a health insurance issuer or its agent from establishing differing copayments or other cost-sharing amounts within the benefit plan for covered persons who acquire physician-administered drugs from other providers. Nothing in this Subpart shall prohibit a health insurance issuer or its agent from refusing to authorize or approve or from denying coverage of a physician-administered drug based upon failure to satisfy medical necessity criteria. For purposes of this Section, the location of receiving the physician-administered drug shall not be included in the medical necessity criteria.

B. The commission of any act prohibited by this Part shall be considered an unfair method of competition and unfair practice or act which shall subject the violator to any and all actions, including investigative demands, private actions, remedies, and penalties, provided for in the Unfair Trade Practices and Consumer Protection Law.

C. Any provision of a contract that is contrary to any provision of this Part shall be null, void, and unenforceable in this state.

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

The original instrument was prepared by Cheryl Cooper. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 191 Engrossed 2021 Regular Session Cloud

Proposed law prohibits a health insurance issuer, pharmacy benefit manager, or their agent from refusing to authorize, approve, or pay a participating provider for providing covered physician-administered drugs and related services to covered persons. Further prohibits a health insurance issuer, pharmacy benefit manager, or their agent from conditioning, denying, restricting, refusing to authorize or approve, or reducing payment to a participating provider for a physician-administered drug when all criteria for medical necessity are met because the participating provider obtains physician-administered drugs from a pharmacy that is not a participating provider in the health insurance issuer's network. Requires that the drug supplied meets the supply chain security controls and chain of distribution set forth by the federal Drug Supply Chain Security Act.

Proposed law provides that "participating provider" includes any clinic, hospital outpatient department or pharmacy under common ownership or control of the participating provider.

Proposed law requires payment to a participating provider to be at the rate set forth in the health insurance issuer's agreement with the provider applicable to such drugs. If no rate is included in the agreement, the payment shall be at the wholesale acquisition cost.

Proposed law prohibits a health insurance issuer, pharmacy benefit manager, or their agent from requiring a covered person pay an additional fee, or any other increased cost-sharing amount in addition to applicable cost-sharing amounts payable by the covered person as designated within the benefit plan to obtain the physician-administered drug when provided by a participating provider.

Proposed law does not prohibit a health insurance issuer or its agent from establishing differing copayments or other cost-sharing amounts within the benefit plan for covered persons who acquire physician-administered drugs from other providers nor shall it prohibit a health insurance issuer or its agent from refusing to authorize or approve or from denying coverage of a physician-administered drug based upon failure to satisfy medical necessity criteria.

Proposed law provides that the location of receiving the physician-administered drug is not to be included in the medical necessity criteria.

Proposed law prohibits a pharmacy benefit manager or person acting on behalf of a pharmacy benefit manager from conditioning, denying, restricting, refusing to authorize or approve, or reducing payment to a pharmacy or pharmacist for providing covered physician-administered drugs and related services to an enrollee. Reimbursement shall be at the rate set forth in the contract between the pharmacy benefit manager or person acting on behalf of a pharmacy benefit manager with the pharmacy or pharmacist applicable to the drugs, or if no rate is included in the agreement, then at the wholesale acquisition cost.

Proposed law prohibits a pharmacy benefit manager from requiring an enrollee to pay an additional fee, higher copay, higher coinsurance, second copay, second coinsurance, or any other increased cost-sharing amount for a physician-administered drug when provided by a pharmacy, pharmacist, clinic, hospital, or hospital outpatient department.

Proposed law requires the commission of any act prohibited by proposed law to be considered an unfair method of competition and unfair practice or act which shall subject the violator to any and all actions, including investigative demands, private actions,

remedies, and penalties as provided in present law.

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

(Adds R.S. 22:1020.51-1020.53)

Summary of Amendments Adopted by Senate

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

1. Moves bill from Title 40 to Title 22.

2. Adds provisions to include pharmacy benefit managers, or their agent.

3. Adds provision prohibiting a health insurance issuer from limiting or denying payment for a physician-administered drug when all criteria for medical necessity are met.

4. Adds provisions that prohibit requiring a covered person to pay an additional fee or other increased cost-sharing amount in addition to applicable cost-sharing amounts payable by the covered person as designated in the benefit.

5. Authorizes a health insurance issuer or its agent to establish differing copayments or other cost sharing amounts within the benefit plan.

6. Adds provisions that prohibit a health insurance issuer or its agent from refusing to authorize or approve or from denying coverage of a physician-administered drug based upon failure to satisfy medical necessity criteria.

7 Adds provisions that the location of receiving the physician-administered drug is not to be included in the medical necessity criteria.