SLS 24RS-394 ORIGINAL

2024 Regular Session

SENATE BILL NO. 347

BY SENATOR HARRIS

HEALTH/ACC INSURANCE. Provides relative to ensuring fairness in certain cost-sharing practices. (gov sig)

1	AN ACT
2	To amend and reenact R.S. 44:4.1(B)(11) and enact R.S. 22:976.2 and 1657.2, relative to
3	health insurance; to prohibit certain health insurance issuer cost-sharing practices;
4	to prohibit certain pharmacy benefit manager cost-sharing practices; to provide
5	definitions; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 22:976.2 and 1657.2 are hereby enacted to read as follows:
8	§976.2 Ensuring fairness in certain cost-sharing
9	A. As used in this Section:
10	(1) "Defined cost sharing" means a deductible payment or coinsurance
11	amount imposed on an enrollee for a covered prescription drug under the
12	enrollee's health coverage plan.
13	(2) "Health insurance issuer" has the same meaning as the term is
14	defined in R.S. 22:976.
15	(3) "Net price" means a price for a prescription drug that takes into
16	account all rebates received or expected to be received in connection with the
17	dispensing or administration of the prescription drug.

1	(4) "Price protection rebate" means a negotiated price concession that
2	accrues directly or indirectly to the health insurance issuer, or other party on
3	behalf of the health insurance issuer, in the event of an increase in the wholesale
4	acquisition cost of a drug above a specified threshold.
5	(5) "Rebates" has the same meaning as the term is defined in R.S.
6	<u>22:976.</u>
7	B. An enrollee's defined cost-sharing for each prescription drug shall be
8	calculated at the point-of-sale based on the net price for the prescription drug.
9	C. Nothing in this Section shall preclude a health insurance issuer from
10	decreasing an enrollee's defined cost-sharing by an amount greater than that
11	required pursuant to Subsection B of this Section.
12	D. In addition to any other civil or criminal penalty authorized by law,
13	a violation of this Section shall be punishable by the department through a civil
14	monetary penalty not to exceed one thousand dollars per claim.
15	E. In implementing the requirements of this Section, the department
16	shall regulate a health insurance issuer only to the extent permissible in
17	accordance with applicable law.
18	F. In complying with the provisions of this Section, a health insurance
19	issuer or its agents shall not publish or otherwise disclose information regarding
20	the actual amount of rebates the health insurance issuer receives, including but
21	not limited to information regarding the amount of rebates it receives on a
22	product or therapeutic class of products, manufacturer, or pharmacy-specific
23	basis. The information is a trade secret, is not a public record as defined in R.S.
24	44:1 et seq., and shall not be disclosed directly or indirectly, or in a manner that
25	would allow for the identification of an individual product, therapeutic class of
26	products, or manufacturer or that would have the potential to compromise the
27	financial, competitive, or proprietary nature of the information. A health
28	insurance issuer shall impose the confidentiality protections and requirements
29	of this Section on any third-parties or vendors with which it contracts that may

1	receive or have access to rebate information.
2	* * *
3	§1657.2. Ensuring fairness in certain cost-sharing
4	A. As used in this Section, and notwithstanding any other provision of
5	this Part:
6	(1) "Defined cost sharing" means a deductible payment or coinsurance
7	amount imposed on an enrollee for a covered prescription drug under the
8	enrollee's health plan.
9	(2) "Insurer" has the same meaning as "health insurance issuer", as
10	defined in R.S. 22:976(A)(3).
11	(3) "Net price" means a price for a prescription drug that takes into
12	account all rebates received or expected to be received in connection with the
13	dispensing or administration of the prescription drug.
14	(4) "Price protection rebate" means a negotiated price concession that
15	accrues directly or indirectly to the insurer, or other party on behalf of insurer,
16	including a pharmacy benefit manager, in the event of an increase in the
17	wholesale acquisition cost of a drug above a specified threshold.
18	(5) "Rebates" means both of the following:
19	(a) Negotiated price concessions, including but not limited to base
20	rebates and reasonable estimates of any price protection rebates and
21	performance-based rebates that may accrue directly or indirectly to the insurer,
22	or other party on behalf of the insurer, including a pharmacy benefit manager,
23	as a result of point-of-sale prescription drug claims processing during the
24	coverage year from a manufacturer, dispensing pharmacy, or other party to the
25	transaction.
26	(b) Reasonable estimates of any fees and other administrative costs that
27	are passed through to the insurer, or other party on behalf of the insurer,
28	including a pharmacy benefit manager, as a result of point-of-sale prescription
29	drug claims processing and serve to reduce the insurer's prescription drug

1	liabilities for the coverage year.
2	B. An enrollee's defined cost sharing for each prescription drug shall be
3	calculated at the point of sale based on the net price for the prescription drug.
4	C. Nothing in this Section shall preclude a pharmacy benefit manager
5	from decreasing an enrollee's defined cost sharing by an amount greater than
6	that required pursuant to Subsection B of this Section.
7	D. In addition to any other civil or criminal penalty authorized by law,
8	a violation of this Section shall be punishable by the department through a civil
9	monetary penalty not to exceed one thousand dollars per claim.
10	E. In implementing the requirements of this Section, the department
11	shall regulate an insurer or pharmacy benefit manager only to the extent
12	permissible under applicable law.
13	F. In complying with the provisions of this Section, a pharmacy benefit
14	manager or its agents shall not publish or otherwise disclose information
15	regarding the actual amount of rebates an insurer receives, including but not
16	limited to information regarding the amount of rebates the insurer receives on
17	a product or therapeutic class of products, manufacturer, or pharmacy-specific
18	basis. The information is protected as a trade secret, is not a public record as
19	defined in R.S. 44:1 et seq., and shall not be disclosed directly or indirectly, or
20	in a manner that would allow for the identification of an individual product,
21	therapeutic class of products, or manufacturer or that would have the potential
22	to compromise the financial, competitive, or proprietary nature of the
23	information. A pharmacy benefit manager shall impose the confidentiality
24	protections and requirements of this Section on any third-parties or vendors
25	with which it contracts that may receive or have access to rebate-related
26	information.
27	Section 2. R.S. 44:4.1(B)(11) is hereby amended and reenacted to read as follows:
28	§4.1. Exceptions

29

1	B. The legislature further recognizes that there exist exceptions, exemptions,
2	and limitations to the laws pertaining to public records throughout the revised
3	statutes and codes of this state. Therefore, the following exceptions, exemptions, and
4	limitations are hereby continued in effect by incorporation into this Chapter by
5	citation:
6	* * *
7	(11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
8	572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1,
9	691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, <b>976.2</b> , 1008, 1019.2,
10	1203, 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, <u>1657.2,</u>
11	1660.7, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085,
12	2091, 2293, 2303, 2508
13	* * *
14	Section 3. This Act shall become effective upon signature by the governor or, if not
15	signed by the governor, upon expiration of the time for bills to become law without signature
16	by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
17	vetoed by the governor and subsequently approved by the legislature, this Act shall become
18	effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Beth O'Quin.

**DIGEST** 

SB 347 Original

2024 Regular Session

Harris

Proposed law applies to both health insurance issuers and third-party administrators to ensure fairness in cost-sharing.

Proposed law defines "defined cost sharing", "health insurance issuer", "net price", "price protection rebate", and "rebates".

Proposed law provides an enrollee's defined cost sharing for each prescription drug is to be calculated at the point of sale based on the net price for the prescription drug.

Proposed law provides a health insurance issuer can decrease an enrollee's defined cost sharing by an amount greater than that required under proposed law.

<u>Proposed law</u> provides civil or criminal penalties for not complying with <u>proposed law</u>.

<u>Proposed law</u> requires health insurance issuers to implement the requirements provided by

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

## proposed law.

<u>Proposed law</u> provides a health insurance issuer or its agents cannot publish or disclose information about the actual amount of rebates the health insurance issuer receives. <u>Proposed law</u> provides this rebating information is considered a trade secret and is not a public record as defined under <u>present law</u>.

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

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:976.2 and 1657.2)