

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 to 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; to provide for penalties; to provide an effective date; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:976.2 and 1657.2 are hereby enacted to read as follows:

9 **§976.2. Ensuring fairness in certain cost-sharing; definitions; penalties**

10 **A. As used in this Section:**

11 **(1) "Defined cost-sharing" means a deductible payment or coinsurance**
12 **amount imposed on an enrollee for a covered prescription drug under the**
13 **enrollee's health coverage plan.**

14 **(2) "Health insurance issuer" means any entity that offers health**
15 **insurance coverage through a plan, policy, or certificate of insurance subject to**
16 **state law that regulates the business of insurance. "Health insurance issuer"**
17 **shall also include a health maintenance organization, as defined and licensed**

1 pursuant to Subpart I of Part I of Chapter 2 of this Title, and a pharmacy
2 benefit manager or any person acting on behalf of a pharmacy benefit manager.
3 "Health insurance issuer" shall not include the Office of Group Benefits or a
4 self-funded health benefit plan that complies with the federal Employee
5 Retirement Income Security Act of 1974, 29 U.S.C. 1001 et seq.

6 (3) "Net price" means a price for a prescription drug that takes into
7 account all rebates received or expected to be received in connection with the
8 dispensing or administration of the prescription drug.

9 (4) "Price protection rebate" means a negotiated price concession that
10 accrues directly or indirectly to the health insurance issuer, or other party on
11 behalf of the health insurance issuer, in the event of an increase in the wholesale
12 acquisition cost of a drug above a specified threshold.

13 (5) "Rebates" has the same meaning as the term is defined in R.S.
14 22:976.

15 B. An enrollee's defined cost-sharing for each prescription drug shall be
16 calculated at the point-of-sale based on the net price for the prescription drug.

17 C. Nothing in this Section shall preclude a health insurance issuer from
18 decreasing an enrollee's defined cost-sharing by an amount greater than that
19 required pursuant to Subsection B of this Section.

20 D. In addition to any other civil or criminal penalty authorized by law,
21 a violation of this Section shall be punishable by the department through a civil
22 monetary penalty not to exceed one thousand dollars per claim.

23 E. In implementing the requirements of this Section, the department
24 shall regulate a health insurance issuer only to the extent permissible in
25 accordance with applicable law.

26 F. In complying with the provisions of this Section, a health insurance
27 issuer or its agents shall not publish or otherwise disclose information regarding
28 the actual amount of rebates the health insurance issuer receives, including but
29 not limited to information regarding the amount of rebates it receives on a

1 product or therapeutic class of products, manufacturer, or pharmacy-specific
2 basis. The information is a trade secret, is not a public record as defined in R.S.
3 44:1 et seq., and shall not be disclosed directly or indirectly, or in a manner that
4 would allow for the identification of an individual product, therapeutic class of
5 products, or manufacturer or that would have the potential to compromise the
6 financial, competitive, or proprietary nature of the information. A health
7 insurance issuer shall impose the confidentiality protections and requirements
8 of this Section on any third-parties or vendors with which it contracts that may
9 receive or have access to rebate information.

10 * * *

11 §1657.2. Ensuring fairness in certain cost-sharing; definitions; penalties

12 A. As used in this Section, and notwithstanding any other provision of
13 this Part:

14 (1) "Defined cost-sharing" means a deductible payment or coinsurance
15 amount imposed on an enrollee for a covered prescription drug under the
16 enrollee's health plan.

17 (2) "Insurer" means any entity that offers health insurance coverage
18 through a plan, policy, or certificate of insurance subject to state law that
19 regulates the business of insurance. "Insurer" shall also include a health
20 maintenance organization, as defined and licensed pursuant to Subpart I of Part
21 I of Chapter 2 of this Title, and a pharmacy benefit manager or any person
22 acting on behalf of a pharmacy benefit manager. "Insurer" shall not include the
23 Office of Group Benefits or a self-funded health benefit plan that complies with
24 the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001
25 et seq.

26 (3) "Net price" means a price for a prescription drug that takes into
27 account all rebates received or expected to be received in connection with the
28 dispensing or administration of the prescription drug.

29 (4) "Price protection rebate" means a negotiated price concession that

1 accrues directly or indirectly to the insurer, or other party on behalf of insurer,
2 including a pharmacy benefit manager, in the event of an increase in the
3 wholesale acquisition cost of a drug above a specified threshold.

4 (5) "Rebates" means both of the following:

5 (a) Negotiated price concessions, including but not limited to base
6 rebates and reasonable estimates of any price protection rebates and
7 performance-based rebates that may accrue directly or indirectly to the insurer,
8 or other party on behalf of the insurer, including a pharmacy benefit manager,
9 as a result of point-of-sale prescription drug claims processing during the
10 coverage year from a manufacturer, dispensing pharmacy, or other party to the
11 transaction.

12 (b) Reasonable estimates of any fees and other administrative costs that
13 are passed through to the insurer, or other party on behalf of the insurer,
14 including a pharmacy benefit manager, as a result of point-of-sale prescription
15 drug claims processing and serve to reduce the insurer's prescription drug
16 liabilities for the coverage year.

17 B. An enrollee's defined cost-sharing for each prescription drug shall be
18 calculated at the point of sale based on the net price for the prescription drug.

19 C. Nothing in this Section shall preclude a pharmacy benefit manager
20 from decreasing an enrollee's defined cost-sharing by an amount greater than
21 that required pursuant to Subsection B of this Section.

22 D. In addition to any other civil or criminal penalty authorized by law,
23 a violation of this Section shall be punishable by the department through a civil
24 monetary penalty not to exceed one thousand dollars per claim.

25 E. In implementing the requirements of this Section, the department
26 shall regulate an insurer or pharmacy benefit manager only to the extent
27 permissible under applicable law.

28 F. In complying with the provisions of this Section, a pharmacy benefit
29 manager or its agents shall not publish or otherwise disclose information

1 regarding the actual amount of rebates an insurer receives, including but not
 2 limited to information regarding the amount of rebates the insurer receives on
 3 a product or therapeutic class of products, manufacturer, or pharmacy-specific
 4 basis. The information is protected as a trade secret, is not a public record as
 5 defined in R.S. 44:1 et seq., and shall not be disclosed directly or indirectly, or
 6 in a manner that would allow for the identification of an individual product,
 7 therapeutic class of products, or manufacturer or that would have the potential
 8 to compromise the financial, competitive, or proprietary nature of the
 9 information. A pharmacy benefit manager shall impose the confidentiality
 10 protections and requirements of this Section on any third-parties or vendors
 11 with which it contracts that may receive or have access to rebate-related
 12 information.

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

14 §4.1. Exceptions

15 * * *

16 B. The legislature further recognizes that there exist exceptions, exemptions,
 17 and limitations to the laws pertaining to public records throughout the revised
 18 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 19 limitations are hereby continued in effect by incorporation into this Chapter by
 20 citation:

21 * * *

22 (11) R.S. 22:2, 14, 31, 42.1, 88, 244, 263, 265, 461, 550.7, 571, 572, 572.1,
 23 572.2, 574, 601.3, 618, 639, 691.4, 691.5, 691.6, 691.7, 691.8, 691.9, 691.9.1,
 24 691.10, 691.38, 691.56, 732, 752, 753, 771, 834, 972(D), 976, **976.2**,1008, 1019.2,
 25 1203, 1460, 1464, 1466, 1488, 1546, 1559, 1566(D), 1644, 1656, 1657.1, **1657.2**,
 26 1660.7, 1723, 1796, 1801, 1808.3, 1927, 1929, 1983, 1984, 2036, 2045, 2056, 2085,
 27 2091, 2293, 2303, 2508

28 * * *

29 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 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 Engrossed

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", "insurer", "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.

Proposed law provides civil or criminal penalties for not complying with proposed law.

Proposed law requires health insurance issuers to implement the requirements provided by proposed law.

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

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)

Summary of Amendments Adopted by Senate

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

1. Makes technical changes.
2. Amends definitions for "health insurance issuer" and "insurer".