

The House Special Committee on Access to Quality Health Care offers the following substitute to HB 1027:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to
2 regulation and licensure of pharmacy benefits managers, so as to provide for requirements
3 relating to rebates received from pharmaceutical manufacturers; to provide for definitions;
4 to prohibit certain activity; to provide for transparency; to prohibit public disclosure of
5 certain information relating to rebates; to provide for an effective date and applicability; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and
10 licensure of pharmacy benefits managers, is amended by revising Code Section 33-64-1,
11 relating to definitions, by adding new paragraphs to read as follows:

12 "(1.1) 'Client' means a health benefit plan issuer or plan sponsor that has retained the
13 services of a pharmacy benefits manager to perform pharmacy benefits management for
14 the issuer or covered entity."

15 "(3.05) 'Defined cost sharing' means a deductible, payment, or coinsurance amount
16 charged to an enrollee for a covered prescription drug under the enrollee's health plan."

17 "(9) 'Rebate' means:

18 (A) Negotiated price concessions, including but not limited to base price concessions,
19 whether described as a rebate or otherwise, and reasonable estimates of any price
20 protection rebates and performance based price concessions that may accrue directly
21 or indirectly to the pharmacy benefits manager or client during the coverage year from
22 a pharmaceutical manufacturer, dispensing pharmacy, or other party in connection with
23 the dispensing or administration of a prescription drug; and

24 (B) Reasonable estimates of any negotiated price concessions, fees, and other
25 administrative costs that are passed through, or are reasonably anticipated to be passed

26 through, to the pharmacy benefits manager or client and serve to reduce the pharmacy
 27 benefits manager's or client's prescription drug liabilities for the coverage year."

28 **SECTION 2.**

29 Said chapter is further amended by revising Code Section 33-64-10, relating to
 30 administration of claims by pharmacy benefit manager, as follows:

31 "33-64-10.

32 (a) A pharmacy benefits manager shall administer claims in compliance with Code Section
 33 33-30-4.3 and shall not require insureds to use a mail-order pharmaceutical distributor
 34 including a mail-order pharmacy.

35 (b)(1) A pharmacy benefits manager shall report annually to each client, including but
 36 not limited to; insurers and payors, the aggregate amount of all rebates that the pharmacy
 37 benefits manager received from pharmaceutical manufacturers in connection with claims
 38 if administered on behalf of the client and the aggregate amount of such rebates the
 39 pharmacy benefits manager received from pharmaceutical manufacturers that it did not
 40 pass through to the client.

41 (2) For each plan a pharmacy benefits manager offers its clients, such pharmacy benefits
 42 manager shall offer an option to the plan sponsor in which an enrollee's defined cost
 43 sharing for each prescription drug calculated at the point of sale based on a price that is
 44 reduced by an amount equal to at least 80 percent of all rebates received, or to be
 45 received, in connection with the dispensing or administration of the prescription drug.

46 (3) Beginning on July 1, 2021, and on an annual basis thereafter, a pharmacy benefits
 47 manager shall provide the Insurance Department with a report detailing the number and
 48 percentage of clients that opted to have cost sharing reduced for their enrollees at the
 49 point of sale pursuant to paragraph (2) of this subsection during the prior calendar year.

50 (4) If a pharmacy benefits manager fails to comply with the provisions of this subsection,
 51 the Commissioner may refuse to issue or, after a hearing, revoke, suspend, or refuse to
 52 renew a pharmacy benefits manager's license, in addition to any other remedies provided
 53 for in this title.

54 (5) In complying with the provisions of this subsection, a pharmacy benefits manager
 55 shall not publish or otherwise directly or indirectly disclose information regarding the
 56 actual amount of rebates the pharmacy benefits manager receives, including but not
 57 limited to information regarding the amount of rebates it receives on a product,
 58 manufacturer, or pharmacy specific basis. Such information shall not be disclosed
 59 directly or indirectly, shall be protected as a trade secret, and shall not be subject to
 60 Article 4 of Chapter 18 of Title 50, relating to open records.

61 (c) This Code section shall not apply to:

- 62 (1) A care management organization, as defined in Chapter 21A of this title;
63 (2) The Department of Community Health, as defined in Chapter 2 of Title 31;
64 (3) The State Health Benefit Plan under Article 1 of Chapter 18 of Title 45; or
65 (4) Any licensed group model health maintenance organization with an exclusive
66 medical group contract and which operates its own pharmacies licensed under Code
67 Section 26-4-110.1."

68 **SECTION 3.**

69 This Act shall become effective on July 1, 2020, and shall apply to all contracts issued,
70 delivered, or issued for delivery in this state on and after January 1, 2021.

71 **SECTION 4.**

72 All laws and parts of laws in conflict with this Act are repealed.