



February 17, 2023

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## SENATE BILL No. 8

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DIGEST OF SB 8 (Updated February 15, 2023 11:42 am - DI 140)

**Citations Affected:** IC 27-1.

**Synopsis:** Prescription drug rebates and pricing. Provides that, for individual health insurance coverage, the defined cost sharing for a prescription drug must be calculated at the point of sale and based on a price that is reduced by an amount equal to at least 85% of all rebates received by the insurer in connection with the dispensing or administration of the prescription drug. Requires that, for group health insurance coverage, an insurer: (1) pass through to a plan sponsor 100% of all rebates received or estimated to be received by the insurer concerning the dispensing or administration of prescription drugs to the covered individuals of the plan sponsor; (2) provide a plan sponsor, at the time of contracting, the option of calculating defined cost sharing for covered individuals of the plan sponsor at the point of sale based on a price that is reduced by some or all of the rebates received or estimated to be received by the insurer concerning the dispensing or administration of the prescription drug; and (3) disclose specified information to the plan sponsor. Allows the department of insurance to enforce the provisions and impose a civil penalty.

**Effective:** July 1, 2023; January 1, 2024.

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**Charbonneau, Bohacek, Becker,  
Busch, Donato, Johnson T, Crider**

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January 9, 2023, read first time and referred to Committee on Health and Provider Services.  
February 16, 2023, reported favorably — Do Pass.

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SB 8—LS 7182/DI 104





February 17, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## SENATE BILL No. 8

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A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-1-48 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2024]:

4 **Chapter 48. Individual Prescription Drug Rebates**  
5 **Sec. 1. As used in this chapter, "covered individual" means an**  
6 **individual who is entitled to health insurance coverage.**

7 **Sec. 2. As used in this chapter, "defined cost sharing" means a**  
8 **deductible payment or coinsurance amount imposed on a covered**  
9 **individual for a covered prescription drug under the covered**  
10 **individual's health insurance coverage.**

11 **Sec. 3. As used in this chapter, "health insurance coverage"**  
12 **includes:**

- 13 (1) **an individual policy of accident and sickness insurance (as**  
14 **defined in IC 27-8-5-1);**  
15 (2) **an individual contract (as defined in IC 27-13-1-21) that**  
16 **provides coverage for basic health care services (as defined in**  
17 **IC 27-13-1-4); and**

SB 8—LS 7182/DI 104



1           (3) any other health plan that is issued on an individual basis;  
 2 and that is subject to state law regulating insurance and offers  
 3 health insurance coverage (as defined in 42 U.S.C. 300gg-91). The  
 4 term includes coverage of a dependent of the covered individual  
 5 under an individual policy or contract described in subdivisions (1)  
 6 through (3).

7           Sec. 4. As used in this chapter, "insurer" means an insurer that  
 8 provides health insurance coverage to a covered individual. The  
 9 term includes the following:

10           (1) A third party administrator.

11           (2) A pharmacy benefit manager (as defined in  
 12 IC 27-1-24.5-12).

13           Sec. 5. As used in this chapter, "price protection rebate" means  
 14 a negotiated price concession that accrues directly or indirectly to  
 15 an insurer, or another party on behalf of an insurer, if there is an  
 16 increase in the wholesale acquisition cost of a prescription drug  
 17 above a specified threshold.

18           Sec. 6. As used in this chapter, "rebate" means:

19           (1) a discount or other negotiated price concession, including  
 20 base price concessions (whether described as a rebate or  
 21 otherwise) and reasonable estimates of price protection  
 22 rebates, and performance based price concessions, that may  
 23 accrue directly or indirectly or are anticipated to be passed  
 24 through to an insurer during the coverage year from a  
 25 manufacturer, dispensing pharmacy, or other party  
 26 concerning the dispensing or administration of a prescription  
 27 drug; and

28           (2) a reasonable estimate of any negotiated price concession,  
 29 fee, or other administrative cost that is passed through, or is  
 30 reasonably anticipated to be passed through, to the insurer  
 31 and serves to reduce the insurer's liability for a prescription  
 32 drug.

33           Sec. 7. A covered individual's defined cost sharing for a  
 34 prescription drug must be:

35           (1) calculated at the point of sale; and

36           (2) based on a price that is reduced by an amount equal to at  
 37 least eighty-five percent (85%) of all rebates received or  
 38 estimated to be received by the insurer in connection with the  
 39 dispensing or administration of the prescription drug.

40           Sec. 8. Nothing in this chapter prohibits an insurer from  
 41 decreasing a covered individual's defined cost sharing by an  
 42 amount greater than the amount required under section 7 of this



1 chapter.

2 Sec. 9. The department may enforce the requirements of this  
3 chapter to the extent permissible under applicable law.

4 Sec. 10. The commissioner may take appropriate action to  
5 enforce this chapter by imposing a civil penalty not to exceed ten  
6 thousand dollars (\$10,000) per violation.

7 Sec. 11. (a) In complying with the requirements of this chapter,  
8 an insurer or an insurer's agent may not publish or otherwise  
9 reveal information regarding the actual amount of rebates the  
10 insurer receives on a product, manufacturer, or pharmacy specific  
11 basis. This information is protected as a trade secret (as defined in  
12 IC 24-2-3-2) and may not be published or otherwise disclosed  
13 directly or indirectly.

14 (b) An insurer shall impose the confidentiality requirements of  
15 this section on any vendor or third party that performs health care  
16 or administrative services on behalf of the insurer and that may  
17 receive or have access to rebate information.

18 SECTION 2. IC 27-1-49 IS ADDED TO THE INDIANA CODE AS  
19 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
20 1, 2023]:

21 **Chapter 49. Group Prescription Drug Rebates**

22 Sec. 1. As used in this chapter, "covered individual" means an  
23 individual who is entitled to health insurance coverage.

24 Sec. 2. As used in this chapter, "defined cost sharing" means a  
25 deductible payment or coinsurance amount imposed on a covered  
26 individual for a covered prescription drug under the covered  
27 individual's health insurance coverage.

28 Sec. 3. As used in this chapter, "health insurance coverage"  
29 includes:

30 (1) a group policy of accident and sickness insurance (as  
31 defined in IC 27-8-5-1);

32 (2) a group contract (as defined in IC 27-13-1-16) that  
33 provides coverage for basic health care services (as defined in  
34 IC 27-13-1-4); and

35 (3) any other group health plan that limits eligibility to  
36 members of a specific group;

37 and that is subject to state law regulating insurance and offers  
38 health insurance coverage (as defined in 42 U.S.C. 300gg-91). The  
39 term includes coverage of a dependent of the covered individual  
40 under a group policy or contract described in subdivisions (1)  
41 through (3).

42 Sec. 4. As used in this chapter, "insurer" means an insurer that



1 provides health insurance coverage to a covered individual. The  
2 term includes the following:

3 (1) A third party administrator.

4 (2) A pharmacy benefit manager (as defined in  
5 IC 27-1-24.5-12).

6 Sec. 5. As used in this chapter, "price protection rebate" means  
7 a negotiated price concession that accrues directly or indirectly to  
8 an insurer, or another party on behalf of an insurer, if there is an  
9 increase in the wholesale acquisition cost of a prescription drug  
10 above a specified threshold.

11 Sec. 6. As used in this chapter, "rebate" means:

12 (1) a discount or other negotiated price concession, including  
13 base price concessions (whether described as a rebate or  
14 otherwise) and reasonable estimates of price protection  
15 rebates, and performance based price concessions, that may  
16 accrue directly or indirectly or are anticipated to be passed  
17 through to an insurer during the coverage year from a  
18 manufacturer, dispensing pharmacy, or other party  
19 concerning the dispensing or administration of a prescription  
20 drug; and

21 (2) a reasonable estimate of any negotiated price concession,  
22 fee, or other administrative cost that is passed through, or is  
23 reasonably anticipated to be passed through, to the insurer  
24 and serves to reduce the insurer's liability for a prescription  
25 drug.

26 Sec. 7. This section applies to a policy of health insurance  
27 coverage that is issued, delivered, amended, or renewed after  
28 December 31, 2023. An insurer shall pass through to a plan  
29 sponsor one hundred percent (100%) of all rebates received or  
30 estimated to be received by the insurer concerning the dispensing  
31 or administration of prescription drugs to the covered individuals  
32 of the plan sponsor.

33 Sec. 8. At the time of contracting, an insurer shall provide plan  
34 sponsors the option of calculating defined cost sharing for covered  
35 individuals of the plan sponsor at the point of sale based on a price  
36 that is reduced by some or all of the rebates received or estimated  
37 to be received by the insurer concerning the dispensing or  
38 administration of the prescription drug.

39 Sec. 9. Nothing in this chapter prohibits an insurer from  
40 decreasing a covered individual's defined cost sharing by an  
41 amount greater than the amount required under section 7 of this  
42 chapter.



1           **Sec. 10. An insurer shall disclose the following information to a**  
2 **plan sponsor on at least an annual basis:**

3           **(1) The approximate amount of rebates expected to be**  
4 **received by the insurer concerning the dispensing or**  
5 **administration of prescription drugs to the covered**  
6 **individuals of the plan sponsor.**

7           **(2) An explanation that the plan sponsor may choose to:**

8           **(A) apply the rebates to reduce premiums for all covered**  
9 **individuals; or**

10           **(B) calculate defined cost sharing for a covered individual**  
11 **at the point of sale based on a price that is reduced by**  
12 **rebates received or estimated to be received by the insurer**  
13 **concerning the dispensing or administration of the covered**  
14 **individual's prescription drugs.**

15           **(3) An explanation that, in the individual market, IC 27-1-48**  
16 **requires that covered individual defined cost sharing be**  
17 **calculated at the point of sale based on a price that is reduced**  
18 **by at least eighty-five percent (85%) of the rebates received**  
19 **or estimated to be received by the insurer concerning the**  
20 **dispensing or administration of the covered individual's**  
21 **prescription drugs.**

22           **Sec. 11. The department may enforce the requirements of this**  
23 **chapter to the extent permissible under applicable law.**

24           **Sec. 12. The commissioner may take appropriate action to**  
25 **enforce this chapter by imposing a civil penalty not to exceed ten**  
26 **thousand dollars (\$10,000) per violation.**

27           **Sec. 13. (a) In complying with the requirements of this chapter,**  
28 **an insurer may not publish or otherwise reveal information**  
29 **regarding the actual amount of rebates the insurer receives on a**  
30 **product, manufacturer, or pharmacy specific basis. This**  
31 **information is protected as a trade secret (as defined in**  
32 **IC 24-2-3-2) and may not be published or otherwise disclosed**  
33 **directly or indirectly.**

34           **(b) An insurer shall impose the confidentiality requirements of**  
35 **this section on any vendor or third party that performs health care**  
36 **or administrative services on behalf of the insurer and that may**  
37 **receive or have access to the rebate information.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 8, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 08 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 1

