Regular Session, 2011

HOUSE BILL NO. 233

BY REPRESENTATIVE BALDONE

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

MEDICAID: Prohibits the La. Medicaid Program from providing coverage for brand name drugs in certain instances

1	AN ACT
2	To amend and reenact R.S. 46:153.3(D)(5)(b) and (c) and to enact R.S.
3	46:153.3(B)(2)(a)(vi), relative to the Louisiana Medicaid Program; to provide certain
4	criteria for the prior approval process within the Medicaid pharmacy program; to
5	establish certain requirements of the Medicaid Pharmaceutical and Therapeutics
6	Committee; to prohibit coverage for brand name drugs in certain instances; and to
7	provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 46:153.3(D)(5)(b) and (c) are hereby amended and reenacted and
10	46:153.3(B)(2)(a)(vi) is hereby enacted to read as follows:
11	§153.3. Medical vendor reimbursements; allowable restrictions; peer-based
12	prescribing and dispensing practice patterns; Medicaid Pharmaceutical and
13	Therapeutics Committee
14	* * *
15	В.
16	* * *
17	(2)(a) The department may establish a drug list that utilizes a prior approval
18	process or any other process or combination of processes that prove to be
19	cost-effective in the medical assistance program. At a minimum any prior approval
20	process shall meet all of the following criteria:
21	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(vi) Assure that no medication sold by a pharmaceutical company under a
2	trademark-protected name, referred to hereafter in this Section as "brand name drug",
3	receives prior authorization if a generic alternative medication is commercially
4	available and is less costly than the net cost of the brand name drug inclusive of all
5	rebate amounts for the brand name drug.
6	* * *
7	D.
8	* * *
9	(5)
10	* * *
11	(b) The committee shall be responsible for developing and maintaining a
12	pharmacopoeia established in conjunction with a prior approval process as provided
13	in Subparagraph (B)(2)(a) of this Section. The pharmacopoeia shall comply with all
14	applicable state and federal laws, rules, and regulations; and unless explicitly
15	required to do so by any such law, rule, or regulation, shall not include any brand
16	name medication for which a generic alternative medication is commercially
17	available and is less costly than the net cost of the brand name drug inclusive of all
18	rebate amounts for the brand name drug. The committee may recommend additions
19	and deletions to the pharmacopoeia, and the pharmacopoeia may change in
20	accordance with those recommendations. The committee shall also advise the
21	secretary of the department on policy recommendations related to the prudent
22	administration of the Medicaid drug program. The secretary shall assure that all
23	actions of the committee comply with applicable state and federal laws, rules, and
24	regulations prior to implementation or modification of the pharmacopoeia. The
25	clinical decisions regarding the preferred drug list shall be made transparent through
26	a written report that is publicly available. If the decision of the Medicaid
27	Pharmaceutical and Therapeutics Committee is contrary to the clinical evidence
28	found in labeling, drug compendia, or peer review literature, such decisions shall be
29	justified in writing.

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(c) Any With the exception of any brand name drug for which a generic
alternative medication is commercially available and is less costly than the net cost
of the brand name drug inclusive of all rebate amounts for the brand name drug, any
drug approved by the United States Food and Drug Administration shall be added
to the formulary as soon as it becomes commercially available. The Medicaid
Pharmaceutical and Therapeutics Committee shall conduct an evidence-based
analysis of the drug to determine if the drug shall be maintained on the formulary.
The analysis shall include but not be limited to the medical evidence of the clinical
effectiveness of the drug as well as evidence of the cost-effectiveness of the drug in
treating illness and disease. The determination by the committee on any new drug
approval by the United States Food and Drug Administration shall be made no later
than ninety days after the drug becomes commercially available. Prior to a drug
being prior authorized, it must have been shall be reviewed by the Medicaid
Pharmaceutical and Therapeutics Committee, and in the case of any brand name
drug, certified by the committee that no generic alternative medication is
commercially available at a lower cost than the net cost of the brand name drug
inclusive of all rebate amounts for the brand name drug.

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Section 2. Within ninety days of enactment of this Act, the Department of Health and Hospitals shall strike from any current drug list, formulary, or pharmacopoeia within the Medicaid pharmacy program any brand name drug, as defined in Section 1 of this Act, for which a generic alternative medication is commercially available and is less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.

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Section 3. Within ninety days of enactment of this Act, the Department of Health and Hospitals shall promulgate, in accordance with the Administrative Procedure Act, any rules necessary to implement the provisions of this Act.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Baldone

HB No. 233

Abstract: Prohibits the La. Medicaid Program from providing coverage for brand name drugs in certain instances.

Present law provides relative to pharmacy services within the La. Medicaid Program.

<u>Present law</u> authorizes the Dept. of Health and Hospitals (DHH) to establish within the La. Medicaid Program a preferred drug list that utilizes a prior authorization process and provides certain criteria for the prior authorization process.

<u>Proposed law provides that such process shall assure that no brand name medication receives</u> prior authorization if a generic alternative medication is commercially available and less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.

<u>Present law</u> creates the Medicaid Pharmaceutical and Therapeutics Committee within DHH, and requires that the committee develop and maintain a pharmacopoeia.

<u>Proposed law</u> provides that such pharmacopoeia shall not include any brand name medication for which a generic alternative medication is commercially available and less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.

<u>Present law</u> provides that any drug approved by the U.S. Food and Drug Administration shall be added to the formulary as soon as it becomes commercially available.

<u>Proposed law</u> provides an exception from automatic inclusion in the formulary for any brand name medication for which a generic alternative medication is commercially available and less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.

<u>Proposed law</u> provides that within 90 days of enactment of <u>proposed law</u>, DHH shall strike from any current drug list, formulary, or pharmacopoeia within the Medicaid pharmacy program any brand name drug for which a generic alternative medication is commercially available and less costly than the net cost of the brand name drug inclusive of all rebate amounts for the brand name drug.

<u>Proposed law</u> provides that within 90 days of enactment of <u>proposed law</u>, DHH shall promulgate any rules necessary to implement the provisions of <u>proposed law</u>.

(Amends R.S. 46:153.3(D)(5)(b) and (c); Adds R.S. 46:153.3(B)(2)(a)(vi))