

2019 Regular Session

SENATE BILL NO. 239 (Substitute of Senate Bill No. 48 by Senator Mills)

BY SENATOR MILLS

MEDICAID. Provides relative to the Medicaid prescription drug benefit program. (8/1/19)

1 AN ACT

2 To amend and reenact the introductory paragraph R.S. 46:153.3(B)(2)(a) and to enact R.S.  
3 46:450.7, relative to the Medicaid prescription drug benefit program; to provide for  
4 the administration of the Medicaid prescription drug benefit program; to provide for  
5 reporting; to provide for a single preferred drug list; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 46:153.3(B)(2)(a) is hereby amended  
9 and reenacted to read as follows:

10 §153.3. Medical vendor reimbursements; allowable restrictions; peer-based  
11 prescribing and dispensing practice patterns; Medicaid  
12 Pharmaceutical and Therapeutics Committee

13 \* \* \*

14 B.(1) \* \* \*

15 \* \* \*

16 (2)(a) The department ~~may~~ **shall** establish a **single preferred** drug list that  
17 utilizes a prior approval process or any other process or combination of processes

1 that prove to be cost-effective in the medical assistance program. The single  
2 preferred drug list shall include all covered therapeutic drug classes that are  
3 subject to prior authorization. At a minimum any prior approval process shall meet  
4 all of the following criteria:

5 \* \* \*

6 Section 2. R.S. 46:450.7 is hereby enacted to read as follows:

7 **§450.7. Medicaid prescription drug benefit program**

8 **A. The Louisiana Department of Health shall administer the Medicaid**  
9 **prescription drug benefit program in accordance with the authority provided**  
10 **for in this Section.**

11 **(1) The department is authorized to remove pharmacy services from**  
12 **Medicaid managed care organization contracts and assume direct responsibility**  
13 **for all Louisiana Medicaid pharmacy services. To comply with this Paragraph,**  
14 **the department may utilize national best practices and techniques to assist with**  
15 **member medication adherence and to control costs, including but not limited**  
16 **to implementation of a preferred drug list in accordance with R.S. 46:153.3,**  
17 **utilization of medication therapy management in accordance with R.S.**  
18 **46:153.3.1, and other clinically effective cost efficient options allowed by state**  
19 **and federal law.**

20 **(2) If the department does not exercise the authority provided for in**  
21 **Paragraph (1) of this Subsection and administers the Medicaid pharmacy**  
22 **program through use of one or more Medicaid managed care organization**  
23 **pharmacy benefit managers, the pharmacy benefit manager shall be**  
24 **reimbursed a transaction fee only and shall not retain any portion of "spread**  
25 **pricing" or state supplemental rebates, as set forth in R.S. 39:1648. In addition,**  
26 **a Medicaid managed care organization or a Medicaid managed care**  
27 **organization pharmacy benefit manager shall not:**

28 **(a) Buy, sell, transfer, or provide Medicaid recipient personal healthcare**  
29 **or contact information to any other party, including subsidiaries of the**

1 pharmacy benefit manager, for any purpose unless specifically authorized to do  
2 so by the department, and under no circumstance may such activity be for the  
3 purpose of patient steering. For purposes of this Section, "patient steering"  
4 means encourage or entice any Medicaid recipient to switch to any pharmacy,  
5 including a mail-order pharmacy, through unsolicited advice or  
6 mass-marketing directed at a Medicaid recipient by a pharmacy benefit  
7 manager, including any employees, affiliated providers, agents, or contractors,  
8 that is intended to influence or that can reasonably be concluded to influence  
9 the Medicaid recipient to change pharmacies.

10 (b) Deny any Louisiana licensed pharmacy or Louisiana licensed  
11 pharmacist the right to be a participating provider in the managed care  
12 organization pharmacy benefit manager's provider network if the pharmacy or  
13 pharmacist meets all requirements of participation in the state Medicaid  
14 program.

15 (c) Deduct healthcare provider fees due to the state pursuant to R.S.  
16 46:2625 from any amount due as reimbursement to a pharmacist or pharmacy.

17 (d) Deduct sales taxes owed to any taxing authority imposing the sales  
18 tax pursuant to R.S. 47:337.11.1 from any amount due as reimbursement to a  
19 pharmacist or pharmacy.

20 B. The department has a duty to administer the Medicaid prescription  
21 drug benefit program in the most clinically effective and cost efficient manner  
22 possible. To ensure compliance with this duty, the department shall develop a  
23 comprehensive plan to administer the Medicaid prescription drug program and  
24 submit the plan to the Senate Committee on Health and Welfare, Senate  
25 Finance Committee, House Committee on Health and Welfare, and House  
26 Appropriations Committee on February 1, 2020. At a minimum, the  
27 comprehensive plan shall include the following:

28 (1) Best practices and clinical and cost outcomes from other states that  
29 have removed pharmacy services from Medicaid managed care organization

1           contracts and assume direct administrative responsibility.

2                   (2) Managed care organization portal access to ensure coordination of  
3           patient care if pharmacy services are removed from Medicaid managed care  
4           organization contracts.

5                   (3) Maximum rebate utilization through participation in the most  
6           effective bulk purchasing multi-state buying pool.

7                   C. Notwithstanding any provision of law to the contrary, no Medicaid  
8           managed care organization shall use a pharmacy benefit manager for Medicaid  
9           if the pharmacy benefit manager is part of a larger company that also owns  
10           retail pharmacies.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 239 Original

2019 Regular Session

Mills

Present law authorizes the La. Department of Health to implement a prior approval process for Medicaid prescription drugs. Proposed law retains present law and mandates a single preferred drug list that shall include all therapeutic drug classes that are subject to prior authorization.

Proposed law authorizes the La. Department of Health to remove pharmacy services from Medicaid managed care organization contracts and assume direct responsibility for all Louisiana Medicaid pharmacy services. Proposed law provides that if the department administers the Medicaid pharmacy program through use of one or more Medicaid managed care organization pharmacy benefit managers certain provisions in proposed law must be adhered to.

Proposed law provides that the department has a duty to administer the Medicaid prescription drug benefit program in the most clinically effective cost efficient manner possible. Proposed law requires the department to develop and submit a comprehensive plan to administer the Medicaid prescription drug program and submit the plan to the Senate and House committees on health and welfare, Senate Finance Committee, and House Appropriations Committee on February 1, 2020.

Proposed law prohibits a Medicaid managed care organization from using a pharmacy benefit manager for Medicaid if the pharmacy benefit manager is part of a larger company that also owns retail pharmacies.

Effective August 1, 2019.

(Amends R.S. 46:153.3(B)(2)(a)(intro para); adds R.S. 46:450.7)