

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

BY SENATOR MILLS

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 46:153.3(B)(2)(a) is hereby amended and reenacted and R.S. 46:450.7 is hereby enacted to read as follows:

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

\* \* \*  
\* \* \*  
\* \* \*

B.(1)

(2)(a) The department ~~may~~ **shall** establish a **single preferred** drug list that utilizes a prior approval process or any other process or combination of processes that prove to be cost-effective in the medical assistance program. **The single preferred drug list shall include all covered therapeutic drug classes that are subject to prior authorization.** At a minimum any prior approval process shall meet all of the following criteria:

\* \* \*

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

1           A.(1) The Louisiana Department of Health, referred to hereafter in this  
2           Section as the "department", shall administer the Medicaid prescription drug  
3           benefit program in accordance with the authority provided for in this Section.

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

13           (3) If the department does not exercise the authority provided for in  
14           Paragraph (2) of this Subsection and administers the Medicaid pharmacy  
15           program through use of one or more Medicaid managed care organization  
16           pharmacy benefit managers, the pharmacy benefit manager shall be  
17           reimbursed a transaction fee only and shall not retain any portion of spread  
18           pricing or state supplemental rebates, as set forth in R.S. 39:1648. In addition,  
19           a Medicaid managed care organization or a Medicaid managed care  
20           organization pharmacy benefit manager shall not do any of the following:

21           (a) Buy, sell, transfer, or provide Medicaid recipient personal healthcare  
22           or contact information to any other party, including subsidiaries of the  
23           pharmacy benefit manager, for any purpose unless specifically authorized to do  
24           so by the department, and under no circumstance may such activity be for the  
25           purpose of patient steering. For purposes of this Subparagraph, "patient  
26           steering" means encouraging or enticing of any Medicaid recipient to switch to  
27           any pharmacy, including a mail-order pharmacy, through unsolicited advice or  
28           mass-marketing directed at a Medicaid recipient by a pharmacy benefit  
29           manager, including any employees, affiliated providers, agents, or contractors  
30           of the pharmacy benefit manager, that is intended to influence or that can

1 reasonably be concluded to influence the Medicaid recipient to change  
2 pharmacies.

3 (b) Deny any Louisiana-licensed pharmacy or Louisiana-licensed  
4 pharmacist the right to be a participating provider in the managed care  
5 organization pharmacy benefit manager's provider network if the pharmacy or  
6 pharmacist meets all requirements of participation in the state Medicaid  
7 program.

8 (c) Deduct healthcare provider fees due to the state pursuant to R.S.  
9 46:2625 from any amount due as reimbursement to a pharmacist or pharmacy.

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

13 B. The department has a duty to administer the Medicaid prescription  
14 drug benefit program in the most clinically effective and cost-efficient manner  
15 possible. To ensure compliance with this duty, the department shall develop a  
16 comprehensive plan to administer the Medicaid prescription drug program and  
17 submit the plan to the Senate Committee on Health and Welfare, Senate  
18 Committee on Finance, House Committee on Health and Welfare, and House  
19 Committee on Appropriations on or before February 1, 2020. At a minimum,  
20 the comprehensive plan shall include the following:

21 (1) Best practices and clinical and cost outcomes from other states that  
22 have removed pharmacy services from Medicaid managed care organization  
23 contracts and assumed direct administrative responsibility.

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

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

29 (4) Medicaid managed care organization use of a pharmacy benefit  
30 manager for Medicaid prescription drug benefit program administration if the

1            **pharmacy benefit manager is part of a larger company that also owns retail**  
2            **pharmacies.**

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_