

2024 Regular Session

SENATE BILL NO. 347

BY SENATOR HARRIS

HEALTH/ACC INSURANCE. Provides relative to ensuring fairness in certain cost-sharing practices. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(11) and enact R.S. 22:976.2 and 1657.2, relative to
3 health insurance; to prohibit certain health insurance issuer cost-sharing practices;
4 to prohibit certain pharmacy benefit manager cost-sharing practices; to provide
5 definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:976.2 and 1657.2 are hereby enacted to read as follows:

8 **§976.2 Ensuring fairness in certain cost-sharing**

9 **A. As used in this Section:**

10 **(1) "Defined cost sharing" means a deductible payment or coinsurance**
11 **amount imposed on an enrollee for a covered prescription drug under the**
12 **enrollee's health coverage plan.**

13 **(2) "Health insurance issuer" has the same meaning as the term is**
14 **defined in R.S. 22:976.**

15 **(3) "Net price" means a price for a prescription drug that takes into**
16 **account all rebates received or expected to be received in connection with the**
17 **dispensing or administration of the prescription drug.**

1 **(4) "Price protection rebate" means a negotiated price concession that**
2 **accrues directly or indirectly to the health insurance issuer, or other party on**
3 **behalf of the health insurance issuer, in the event of an increase in the wholesale**
4 **acquisition cost of a drug above a specified threshold.**

5 **(5) "Rebates" has the same meaning as the term is defined in R.S.**
6 **22:976.**

7 **B. An enrollee's defined cost-sharing for each prescription drug shall be**
8 **calculated at the point-of-sale based on the net price for the prescription drug.**

9 **C. Nothing in this Section shall preclude a health insurance issuer from**
10 **decreasing an enrollee's defined cost-sharing by an amount greater than that**
11 **required pursuant to Subsection B of this Section.**

12 **D. In addition to any other civil or criminal penalty authorized by law,**
13 **a violation of this Section shall be punishable by the department through a civil**
14 **monetary penalty not to exceed one thousand dollars per claim.**

15 **E. In implementing the requirements of this Section, the department**
16 **shall regulate a health insurance issuer only to the extent permissible in**
17 **accordance with applicable law.**

18 **F. In complying with the provisions of this Section, a health insurance**
19 **issuer or its agents shall not publish or otherwise disclose information regarding**
20 **the actual amount of rebates the health insurance issuer receives, including but**
21 **not limited to information regarding the amount of rebates it receives on a**
22 **product or therapeutic class of products, manufacturer, or pharmacy-specific**
23 **basis. The information is a trade secret, is not a public record as defined in R.S.**
24 **44:1 et seq., and shall not be disclosed directly or indirectly, or in a manner that**
25 **would allow for the identification of an individual product, therapeutic class of**
26 **products, or manufacturer or that would have the potential to compromise the**
27 **financial, competitive, or proprietary nature of the information. A health**
28 **insurance issuer shall impose the confidentiality protections and requirements**
29 **of this Section on any third-parties or vendors with which it contracts that may**

1 receive or have access to rebate information.

2 * * *

3 §1657.2. Ensuring fairness in certain cost-sharing

4 A. As used in this Section, and notwithstanding any other provision of
5 this Part:

6 (1) "Defined cost sharing" means a deductible payment or coinsurance
7 amount imposed on an enrollee for a covered prescription drug under the
8 enrollee's health plan.

9 (2) "Insurer" has the same meaning as "health insurance issuer", as
10 defined in R.S. 22:976(A)(3).

11 (3) "Net price" means a price for a prescription drug that takes into
12 account all rebates received or expected to be received in connection with the
13 dispensing or administration of the prescription drug.

14 (4) "Price protection rebate" means a negotiated price concession that
15 accrues directly or indirectly to the insurer, or other party on behalf of insurer,
16 including a pharmacy benefit manager, in the event of an increase in the
17 wholesale acquisition cost of a drug above a specified threshold.

18 (5) "Rebates" means both of the following:

19 (a) Negotiated price concessions, including but not limited to base
20 rebates and reasonable estimates of any price protection rebates and
21 performance-based rebates that may accrue directly or indirectly to the insurer,
22 or other party on behalf of the insurer, including a pharmacy benefit manager,
23 as a result of point-of-sale prescription drug claims processing during the
24 coverage year from a manufacturer, dispensing pharmacy, or other party to the
25 transaction.

26 (b) Reasonable estimates of any fees and other administrative costs that
27 are passed through to the insurer, or other party on behalf of the insurer,
28 including a pharmacy benefit manager, as a result of point-of-sale prescription
29 drug claims processing and serve to reduce the insurer's prescription drug

proposed law.

Proposed law provides a health insurance issuer or its agents cannot publish or disclose information about the actual amount of rebates the health insurance issuer receives. Proposed law provides this rebating information is considered a trade secret and is not a public record as defined under present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:976.2 and 1657.2)