STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 144 By: Hicks

AS INTRODUCED

An Act relating to prescription drugs; defining terms; requiring certain report be compiled by the Insurance Department by certain date; requiring certain reports be submitted by certain drug manufacturer by certain date; requiring certain report be submitted by certain pharmacy benefits manager; directing Department to publish certain information on certain website; establishing data requirements for publishing and physical component; directing Department to promulgate rules; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6970 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Manufacturer" means any person or entity that holds the national drug code for a prescription drug and is engaged in the production, preparation, propagation, compounding, conversion, or processing of drug products for treating diabetes in this state;

2. "Pharmacy" means a pharmacy as defined pursuant to Section 353.1 of Title 59 of the Oklahoma Statutes; and

3. "Pharmacy benefits manager" means a pharmacy benefits manager as defined pursuant to Section 6960 of Title 36 of the Oklahoma Statutes.

B. On or before February 1 of each calendar year, the Insurance Department shall compile:

1. A list of prescription drugs that the Department determines to be essential for treating diabetes in this state and the wholesale acquisition cost of each drug on the list. The list shall include, but not be limited to, all forms of insulin and biguanides marketed for sale in this state; and

2. A list of prescription drugs described in paragraph 1 of this subsection that have been subject to an increase in the wholesale acquisition cost of a percentage equal to or greater than:

a. the percentage increase in the medical care index of the Consumer Price Index, during the immediately preceding year, or

b. twice the percentage increase in the medical care index of the Consumer Price Index, during the immediately preceding two calendar years.

C. On or before April 1 of each calendar year, the manufacturer of a prescription drug that appears on the most current list compiled by the Department pursuant to subsection A of this section

shall prepare and submit to the Department, in a form to be prescribed by the Department, a report that shall include:

1. The cost of the drug to the consumer;

2. The total administrative expenditures relating to the drug including marketing and advertising costs;

3. The profit that the manufacturer has earned from the drug and the percentage of the total profit of the manufacturer for the period during which the manufacturer has marketed the drug for sale that is attributable to the drug;

4. The total amount of financial assistance that the manufacturer has provided through any patient prescription assistance program;

5. The cost associated with coupons provided directly to consumers and for programs to assist consumers in paying copayments, and the cost to the manufacturer attributable to the redemption of those coupons and the use of those programs;

6. The wholesale acquisition cost of the drug;

7. A history of any increases in the wholesale acquisition cost of the drug over the five (5) years immediately preceding the date on which the report is submitted, including the amount of each increase expressed as a percentage of the total wholesale acquisition cost of the drug, the month and year in which each increase became effective, and any explanation for the increase;

8. The aggregate amount of all rebates that the manufacturer has provided to pharmacy benefits managers for sales of the drug within this state; and

9. Any additional information deemed necessary by the Department for the purpose of analyzing the cost of prescription drugs that appear on the list compiled pursuant to subsection B of this section.

D. On or before April 1 of a year in which a drug is included on the list compiled pursuant to subsection B of this section, the manufacturer of the drug shall submit to the Department a report describing the reasons for the increase in the wholesale acquisition cost of the drug described in that subsection. The report shall include, but not be limited to:

1. A list of each factor that has contributed to the increase;

2. The percentage of the total increase that is attributable to each factor;

3. An explanation of the role of each factor in the increase; and

4. Any other information prescribed by rule of the Department.

E. Except as provided in this section, a pharmacy benefits manager shall submit to the Department a report that shall include:

1. The total amount of all rebates that the pharmacy benefits manager negotiated with the manufacturers during the immediately

preceding calendar year for prescription drugs included on the list compiled by the Department pursuant to subsection B of this section;

2. The total amount of all rebates described in paragraph 1 of this subsection that were retained by the pharmacy benefits manger;

3. The total amount of all rebates described in paragraph 1 of this subsection that the pharmacy benefits manager negotiated for purchases of drugs for use by:

a. recipients of Medicare,

b. recipients of Medicaid,

c. persons covered by third parties that are governmental entities not described in subparagraphs a and b of this paragraph,

d. persons covered by third parties that are not governmental entities, and

e. persons covered by a plan described in paragraph 4 of this subsection to the extent required by a contract entered into pursuant to paragraph 5 of this subsection;

4. Except as otherwise provided in subparagraph c of paragraph 3 of this subsection, the requirements of this section do not apply to the coverage of prescription drugs under a plan that is subject to the federal Employee Retirement Income Security Act of 1974 as amended or any information relating to that coverage; and

5. A plan described in paragraph 4 of this subsection may, by contract, require a pharmacy benefits manager that manages the coverage of prescription drugs under the plan to comply with the requirements of this section.

F. The Department shall analyze the information submitted pursuant to subsections C, D, and E of this section and publish a report on the website created under subsection G of this section on the price of the prescription drugs that appear on the most current lists compiled by the Department pursuant to subsection B of this section, the reasons for any increases in those prices, and the effect of those prices on overall spending on prescription drugs in this state. The report may include, but not be limited to, opportunities for persons and entities in this state to lower the cost of drugs for the treatment of diabetes while maintaining access to the drugs.

G. 1. The Department shall create and maintain a website, to be updated no less frequently than once each calendar quarter, and shall place or cause to be placed:

a. the list of prescription drugs compiled by the Department pursuant to subsection B of this section,

b. the wholesale acquisition cost of each prescription drug reported pursuant to subsection C of this section, and

c. the reports compiled by the Department pursuant to subsection F of this subsection.

2. The Department shall ensure that the information placed on the website is organized so that each individual manufacturer has its own separate entry on the website.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in this section may access this data. This shall include, but not be limited to, maintaining copies of the data reported pursuant to this section maintained by the Department.

H. The Department shall promulgate rules to effectuate the provisions of this section.

SECTION 2. This act shall become effective November 1, 2023.

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