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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO INSURANCE -- PRESCRIPTION DRUG BENEFITS--PRESCRIPTION
DRUG MARKETING

Introduced By: Senators Miller, Satchell, Sosnowski, Goldin, and Valverde

Date Introduced: January 24, 2019

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-20.8 of the General Laws entitled "Prescription Drug Benefits"
2 is hereby amended by adding thereto the following section:

3 **27-20.8-3. Fair marketing of prescription drugs.**

4 (a) Legislative purpose. Health insurance premiums are increasing in large part due to
5 prescription drug expenses. Drug manufacturers employ direct-to-consumer marketing strategies,
6 including coupons, discount cards, and similar offers, designed to conceal the true costs of high
7 priced drugs. Controlling the application of these marketing programs, especially when lower cost
8 alternatives are available, will help eliminate an expense that drives up the cost of health care for
9 Rhode Islanders. These marketing strategies and practices are prohibited for Medicare, Medicaid,
10 and other federally-funded programs because they increase the costs to those programs. Similar
11 protections should be provided for those paying the premiums for commercial coverage.
12 Furthermore, where the drug makers are willing to offer these "discounts" to patients with
13 insurance, they should provide similar discounts to help those patients without coverage. This
14 section addresses those cost concerns.

15 (b) A person who manufactures a prescription drug who offers or makes available to an
16 insured in this state any discount, repayment, product voucher, or similar mechanism that
17 provides a reduction in an individual's out-of-pocket expenses, associated with their health
18 insurance, shall permit such mechanism to be used by a person with or without health insurance

1 coverage for that prescription drug.

2 (c) A person who manufactures a prescription drug who offers or makes available to an
3 insured in this state any discount, repayment, product voucher, or similar mechanism, shall
4 publish on the discount card, coupon, voucher, or similar material, and on any accompanying
5 advertisement and website, in an easily readable font and understandable format, a message that a
6 generic alternative has been approved by the United States Food and Drug Administration (FDA),
7 that the generic alternative may be available at a lower price, and instructions for the dispensing
8 pharmacist, to inform the consumer about all generic alternatives.

9 (1) For the purpose of this section, a "generic alternative" means a drug designated to be
10 therapeutically equivalent, as indicated by the FDA's "Approved Drug Products with Therapeutic
11 Equivalence Evaluations." Subsection (c) of this section shall not apply to a branded prescription
12 drug until the time that the first drug designated in the FDA's "Approved Drug Products with
13 Therapeutic Equivalence Evaluations" as therapeutically equivalent to that branded prescription
14 drug has been nationally available, or, the active ingredients of the drug are contained in products
15 regulated by the FDA, are available without prescription at a lower cost, and are not otherwise
16 contraindicated for treatment of the condition for which the prescription drug is approved.

17 (d) When calculating a patient's overall contribution to any out-of-pocket maximum,
18 deductible, co-payment, coinsurance, or other cost-sharing requirement, a health plan shall
19 include any amounts paid for by the patient or on behalf of the patient by another person. For the
20 purpose of this section, a "person" means a natural person, corporation, mutual company,
21 unincorporated association, partnership, joint venture, limited liability company, trust, estate,
22 foundation, not-for-profit corporation, unincorporated organization, government or governmental
23 subdivision or agency.

24 SECTION 2. This act shall take effect on January 1, 2020.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- PRESCRIPTION DRUG BENEFITS--PRESCRIPTION
DRUG MARKETING

1 This act would regulate the marketing of prescription drug manufacturers using direct-to-
2 consumer marketing strategies including coupons, discount cards and similar offers to conceal the
3 true costs of high priced drugs, as opposed to lower cost alternatives, and by also making these
4 discounts available to individuals without health insurance.

5 This act would take effect on January 1, 2020.

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