

1 AN ACT

2 relating to establishment of the prescription drug savings program  
3 for certain uninsured individuals.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. SHORT TITLE. This Act shall be known as "Texas  
6 Cares."

7 SECTION 2. PRESCRIPTION DRUG SAVINGS PROGRAM. Subtitle C,  
8 Title 2, Health and Safety Code, is amended by adding Chapter 65 to  
9 read as follows:

10 CHAPTER 65. PRESCRIPTION DRUG SAVINGS PROGRAM FOR CERTAIN

11 UNINSURED INDIVIDUALS

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 65.001. DEFINITIONS. In this chapter:

14 (1) "Enrollee" means an individual enrolled in the  
15 program.

16 (2) "Fund" means the trust fund established under  
17 Section 65.101.

18 (3) "Pharmacy benefit manager" has the meaning  
19 assigned by Section 4151.151, Insurance Code.

20 (4) "Prescription drug" has the meaning assigned by  
21 Section 551.003, Occupations Code.

22 (5) "Program" means the prescription drug savings  
23 program established under this chapter.

24 (6) "Uninsured individual" means an individual

1 without health benefit plan coverage for a prescription drug  
2 benefit.

3 Sec. 65.002. CONSTRUCTION OF CHAPTER; PURPOSE. (a) This  
4 chapter does not establish an entitlement to assistance in  
5 obtaining benefits for uninsured individuals.

6 (b) The purpose of this chapter is to establish a program to  
7 provide uninsured individuals access to prescription drug benefits  
8 using money from the fund to pay an amount equal to the value of a  
9 prescription drug rebate at the point of sale and returning that  
10 rebate amount to the fund to ensure the amounts credited to the fund  
11 equal the amounts paid from the fund.

12 (c) This chapter does not expand the Medicaid program.

13 Sec. 65.003. RULES. The executive commissioner shall adopt  
14 rules as necessary to implement this chapter.

15 SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION  
16 DRUG SAVINGS PROGRAM

17 Sec. 65.051. ESTABLISHMENT OF PROGRAM. (a) The commission  
18 shall develop and design a prescription drug savings program that  
19 partners with a pharmacy benefit manager to offer prescription  
20 drugs at a discounted rate to uninsured individuals.

21 (b) In developing and implementing the program, the  
22 commission shall ensure the program benefits do not include  
23 prescription drugs used for the elective termination of a  
24 pregnancy.

25 (c) The executive commissioner shall ensure the program is  
26 designed to provide the greatest possible value to uninsured  
27 individuals served by the program, while considering the adequacy

1 of the prescription drug formulary, net costs of the drugs to  
2 enrollees, cost to the state, and other important factors  
3 determined by the commission.

4 Sec. 65.052. GENERAL POWERS AND DUTIES OF COMMISSION  
5 RELATED TO PROGRAM. (a) The commission shall oversee the  
6 implementation of the program and coordinate the activities of each  
7 state agency involved in that implementation.

8 (b) The commission shall design the program to be cost  
9 neutral by collecting prescription drug rebates after using money  
10 in the fund in amounts equal to the rebate amounts to purchase  
11 prescription drugs.

12 (c) The commission shall develop procedures for accepting  
13 applications for program enrollment, including a process to:

14 (1) determine eligibility, screening, and enrollment  
15 procedures that allow applicants to self attest to the extent  
16 authorized by federal law; and

17 (2) resolve disputes related to eligibility  
18 determinations.

19 (d) The commission shall publish on an Internet website all  
20 average consumer costs for each prescription drug available through  
21 the program.

22 (e) The commission and the contracted pharmacy benefit  
23 manager shall integrate manufacturer and other third-party patient  
24 assistance programs into the program to the extent feasible. A  
25 manufacturer or other third party may decline to link the  
26 manufacturer's or third party's patient assistance program to the  
27 program. The commission shall give preference to integrating

1 patient assistance programs by listing information on those patient  
2 assistance programs in a central location on the Internet website  
3 described by Subsection (d) that directs patients to those patient  
4 assistance programs as appropriate.

5 (f) The commission shall ensure the program has access to an  
6 adequate pharmacy network and give preference to conducting the  
7 program using a state pharmaceutical assistance program.

8 (g) The commission is not required to enter into stand-alone  
9 contracts under this chapter. The commission may add the program,  
10 wholly or partly, to existing contracts to increase efficiency.

11 Sec. 65.053. PHARMACY BENEFIT MANAGER CONTRACT,  
12 MONITORING, AND REPORTING REQUIREMENTS. (a) The commission shall  
13 contract with a pharmacy benefit manager to provide discounted  
14 prescription drugs to enrollees under the program.

15 (b) The commission shall monitor through reporting or other  
16 methods the contracted pharmacy benefit manager to ensure  
17 performance under the contract and quality delivery of services.

18 (c) The contracted pharmacy benefit manager shall report to  
19 the commission on the commission's request information related to  
20 the program, including information on rebate amounts, prescription  
21 drug rates contracted with pharmacies, administrative costs, and  
22 out-of-pocket costs paid by enrollees at the point of sale of the  
23 prescription drugs.

24 Sec. 65.054. CONTRACT FUNCTIONS. (a) The commission may  
25 contract with a third-party administrator or other entity to  
26 perform any or all program functions for the commission under this  
27 chapter.

1       (b) A third-party administrator or other entity may perform  
2 tasks under a contract entered into under Subsection (a) that would  
3 otherwise be performed by the commission.

4       Sec. 65.055. COMMUNITY OUTREACH CAMPAIGN. The commission  
5 shall conduct or contract to conduct a community outreach and  
6 education campaign in the form and manner determined by the  
7 commission to provide information on the program's availability to  
8 eligible individuals.

9           SUBCHAPTER C. TRUST FUND; PROGRAM SUSPENSION

10       Sec. 65.101. ESTABLISHMENT OF FUND. (a) A trust fund is  
11 established outside the state treasury for the purposes of this  
12 chapter.

13           (b) The fund consists of:

14               (1) gifts, grants, and donations received by this  
15 state for the purposes of the fund;

16               (2) legislative appropriations of money for the  
17 purposes of this chapter;

18               (3) federal money available to this state that by law  
19 may be used for the purposes of this chapter; and

20               (4) interest, dividends, and other income of the fund.

21           (c) The commission shall administer the fund as trustee for  
22 the benefit of the program established by this chapter.

23           (d) Money in the fund may be used only to administer the  
24 program and provide program services.

25           (e) The commission shall ensure money spent from the fund to  
26 assist enrollees in purchasing prescription drugs is cost neutral  
27 after collecting the prescription drug rebates under the program.

1       (f) The commission may solicit and accept gifts, grants, and  
2 donations for the fund.

3       Sec. 65.102. SUFFICIENT FUNDING REQUIRED. Notwithstanding  
4 any other provision of this chapter, the commission is not required  
5 to implement the program unless money is provided and by law made  
6 available for deposit to the credit of the fund.

7       Sec. 65.103. SUSPENSION OF PROGRAM. On the fourth  
8 anniversary of the date the program is established, the commission  
9 shall suspend the program and seek legislative approval to continue  
10 the program unless the ongoing costs of administering the program  
11 are fully funded through enrollee cost sharing.

12       SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

13       Sec. 65.151. ELIGIBILITY CRITERIA. (a) Except as provided  
14 by Subsection (b), an individual is eligible for benefits under the  
15 program if the individual is:

16               (1) a resident of this state;

17               (2) a citizen or lawful permanent resident of the  
18 United States; and

19               (3) uninsured, as determined by the commission.

20       (b) If the commission determines necessary, the commission  
21 may consider an applicant's financial vulnerability as an  
22 additional factor for determining program eligibility.

23       Sec. 65.152. COST SHARING. (a) To the extent necessary,  
24 the commission shall require enrollees to share the cost of the  
25 program, including requiring enrollees to pay a copayment at the  
26 point of sale of a prescription drug.

27       (b) The commission must:

1           (1) allow an enrollee to pay all or part of the  
2 enrollee's share from any source the enrollee selects; and

3           (2) accept another assistance program if that  
4 assistance program wholly or partly covers the enrollee share of  
5 the prescription drug cost.

6           (c) The commission shall require an enrollee to pay a  
7 copayment to compensate the pharmacy, pharmacy benefit manager, and  
8 commission for the costs of administering the program in accordance  
9 with Subsection (d) and under the methodology determined by the  
10 commission.

11           (d) Enrollees shall pay the costs of ongoing administration  
12 of the program through an additional charge at the point of sale of  
13 an eligible prescription drug only if the total number of enrollees  
14 in the program allows for the additional charge to be an amount not  
15 to exceed the lesser of:

16           (1) an amount similar to the amount charged for a  
17 prescription drug in other state pharmaceutical assistance  
18 programs administered by the commission; or

19           (2) 10 percent of the total amount charged at the point  
20 of sale for the prescription drug.

21                   SUBCHAPTER E. OPERATION OF PROGRAM

22           Sec. 65.201. PROGRAM BENEFITS. The commission must approve  
23 program benefits offered under this chapter. The commission shall  
24 ensure the benefits comply with all applicable federal and state  
25 laws, rules, and regulations.

26           Sec. 65.202. REPORTING. (a) A third-party administrator,  
27 pharmacy benefit manager, or any other entity the commission

1 contracts with under Section 65.054 shall report to the commission  
2 in the form and manner prescribed by the commission on the benefits  
3 and services provided under the program.

4 (b) The commission shall establish a procedure to monitor  
5 the provision of benefits and services under this chapter.

6 Sec. 65.203. FRAUD PREVENTION. The executive commissioner  
7 by rule shall develop and implement fraud prevention and detection  
8 for pharmacy benefit managers, contracted third parties, and other  
9 entities involved in the program.

10 Sec. 65.204. ANNUAL PROGRAM REPORTS. Not later than  
11 December 1 of each year, the commission shall provide a written  
12 report to the governor, lieutenant governor, speaker of the house  
13 of representatives, and standing committees of the legislature with  
14 primary jurisdiction over the program. The report must include:

15 (1) a line-item list of all program administrative  
16 costs incurred by the commission;

17 (2) the amount of the pharmacy benefit manager and  
18 third-party administrator fees;

19 (3) the aggregate amounts of rebates anticipated and  
20 received for the program; and

21 (4) other program expenditures as the commission  
22 determines appropriate.

23 SECTION 3. INSULIN STUDY. (a) In this section,  
24 "commission" means the Health and Human Services Commission.

25 (b) The commission shall conduct a study on the development  
26 and implementation of the prescription drug savings program  
27 established by Chapter 65, Health and Safety Code, as added by this



1 Act, in providing post-rebate insulin to enrollees. The commission  
2 shall determine the effectiveness of the program in providing  
3 insulin-related services to uninsured individuals in this state and  
4 any legislative recommendations for improvements to the program.

5 (c) Not later than February 14, 2023, the commission shall  
6 provide a written report of the results of the study conducted under  
7 Subsection (b) of this section to the governor, lieutenant  
8 governor, speaker of the house of representatives, and members of  
9 the standing committees of the legislature with primary  
10 jurisdiction over the commission. The study must include at least  
11 six months of information on use by and cost to enrollees for  
12 prescription insulin.

13 SECTION 4. GENERAL STUDY. (a) In this section,  
14 "commission" means the Health and Human Services Commission.

15 (b) The commission shall conduct a study on the development  
16 and implementation of the prescription drug savings program  
17 established by Chapter 65, Health and Safety Code, as added by this  
18 Act, in providing to enrollees all of the post-rebate formulary of  
19 prescription drugs. The commission shall determine the  
20 effectiveness of the program in providing prescription  
21 drug-related services to uninsured individuals in this state and  
22 any legislative recommendations for improvements to the program.

23 (c) Not later than February 14, 2025, the commission shall  
24 provide a written report on the results of the study conducted under  
25 Subsection (b) of this section to the governor, lieutenant  
26 governor, speaker of the house of representatives, and standing  
27 committees of the legislature with primary jurisdiction over the

1 commission. The study must include at least one year of information  
2 on use by and cost to enrollees for all of the formulary of  
3 prescription drugs.

4 SECTION 5. TRANSITION. (a) The Health and Human Services  
5 Commission is not required to submit the initial report under  
6 Section 65.204, Health and Safety Code, as added by this Act, until  
7 December 1, 2022.

8 (b) The Health and Human Services Commission is required to  
9 implement a provision of this Act only if the legislature  
10 appropriates money specifically for that purpose. If the  
11 legislature does not appropriate money specifically for that  
12 purpose, the Health and Human Services Commission may, but is not  
13 required to, implement a provision of this Act using other  
14 appropriations available for that purpose.

15 SECTION 6. RULES. As soon as practicable after the  
16 effective date of this Act, the executive commissioner of the  
17 Health and Human Services Commission and any other state agency  
18 designated by the executive commissioner shall adopt rules  
19 necessary to implement Chapter 65, Health and Safety Code, as added  
20 by this Act.

21 SECTION 7. EFFECTIVE DATE. This Act takes effect September  
22 1, 2021.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 18 was passed by the House on April 15, 2021, by the following vote: Yeas 144, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 18 on May 28, 2021, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 18 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 28, Nays 2.

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Secretary of the Senate

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

Date

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Governor