

By: Oliverson, Bonnen, Collier, et al.

H.B. No. 18

Substitute the following for H.B. No. 18:

By: Sanford

C.S.H.B. No. 18

A BILL TO BE ENTITLED

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 and may delegate decisions about the policies of the

1 program to the third-party administrator or other entity.

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

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

10 SUBCHAPTER C. TRUST FUND; PROGRAM SUSPENSION

11 Sec. 65.101. ESTABLISHMENT OF FUND. (a) A trust fund is
12 established outside the state treasury for the purposes of this
13 chapter only if this state receives federal money that may be used
14 for the purposes of this chapter and that federal money is directed
15 to be deposited to the credit of the fund as provided by law.

16 (b) The fund consists of:

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

19 (2) legislative appropriations of money for the
20 purposes of this chapter;

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

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

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

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

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

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

6 Sec. 65.102. FEDERAL MONEY REQUIRED. Notwithstanding any
7 other provision of this chapter, the commission may not implement
8 the program unless federal money is provided to this state and by
9 law made available for deposit to the credit of the fund.

10 Sec. 65.1025. INITIAL COSTS. (a) The commission may pay
11 the program's one-time start-up costs only with federal money in
12 the fund.

13 (b) This section expires September 1, 2025.

14 Sec. 65.103. SUSPENSION OF PROGRAM. On the fourth
15 anniversary of the date the program is established, the commission
16 shall suspend the program and seek legislative approval to continue
17 the program if the federal money in the fund available to be used
18 for the program's one-time start-up costs is depleted and the
19 ongoing costs of administering the program are not fully funded
20 through enrollee cost sharing.

21 SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

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

25 (1) a resident of this state;

26 (2) a citizen or lawful permanent resident of the
27 United States; and

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

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

5 Sec. 65.152. COST SHARING. (a) To the extent necessary,
6 the commission shall require enrollees to share the cost of the
7 program, including requiring enrollees to pay a copayment at the
8 point of sale of a prescription drug.

9 (b) The commission must:

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

12 (2) accept another assistance program if that
13 assistance program wholly or partly covers the enrollee share of
14 the prescription drug cost.

15 (c) The commission shall require an enrollee to pay a
16 copayment to compensate the pharmacy, pharmacy benefit manager, and
17 commission for the costs of administering the program in accordance
18 with Subsection (d) and under the methodology determined by the
19 commission.

20 (d) Enrollees shall pay the costs of ongoing administration
21 of the program through an additional charge at the point of sale of
22 an eligible prescription drug only if the total number of enrollees
23 in the program allows for the additional charge to be an amount not
24 to exceed the lesser of:

25 (1) \$4; or

26 (2) 10 percent of the total amount charged at the point
27 of sale for the prescription drug.

1 SUBCHAPTER E. OPERATION OF PROGRAM

2 Sec. 65.201. PROGRAM BENEFITS. The commission must approve
3 program benefits offered under this chapter. The commission shall
4 ensure the benefits comply with all applicable federal and state
5 laws, rules, and regulations.

6 Sec. 65.202. REPORTING. (a) A third-party administrator,
7 pharmacy benefit manager, or any other entity the commission
8 contracts with under Section 65.054 shall report to the commission
9 in the form and manner prescribed by the commission on the benefits
10 and services provided under the program.

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

13 Sec. 65.203. FRAUD PREVENTION. The executive commissioner
14 by rule shall develop and implement fraud prevention and detection
15 for pharmacy benefit managers, contracted third parties, and other
16 entities involved in the program.

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

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

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

26 (3) the aggregate amounts of rebates anticipated and
27 received for the program; and

1 (4) other program expenditures as the commission
2 determines appropriate.

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

5 (b) The commission shall conduct a study on the development
6 and implementation of the prescription drug savings program
7 established by Chapter 65, Health and Safety Code, as added by this
8 Act, in providing post-rebate insulin to enrollees. The commission
9 shall determine the effectiveness of the program in providing
10 insulin-related services to uninsured individuals in this state and
11 any legislative recommendations for improvements to the program.

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

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

22 (b) The commission shall conduct a study on the development
23 and implementation of the prescription drug savings program
24 established by Chapter 65, Health and Safety Code, as added by this
25 Act, in providing to enrollees all of the post-rebate formulary of
26 prescription drugs. The commission shall determine the
27 effectiveness of the program in providing insulin-related services

1 to uninsured individuals in this state and any legislative
2 recommendations for improvements to the program.

3 (c) Not later than February 14, 2025, the commission shall
4 provide a written report on the results of the study conducted under
5 Subsection (b) of this section to the governor, lieutenant
6 governor, speaker of the house of representatives, and standing
7 committees of the legislature with primary jurisdiction over the
8 commission. The study must include at least one year of information
9 on use by and cost to enrollees for all of the formulary of
10 prescription drugs.

11 SECTION 5. TRANSITION. The Health and Human Services
12 Commission is not required to submit the initial report under
13 Section 65.204, Health and Safety Code, as added by this Act, until
14 December 1, 2022.

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.