

By: Harris of Anderson

H.B. No. 2180

A BILL TO BE ENTITLED

AN ACT

relating to the application of prescription drug price rebates to reduce health benefit plan enrollee cost sharing.

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

SECTION 1. Chapter 1369, Insurance Code, is amended by adding Subchapter B-2 to read as follows:

SUBCHAPTER B-2. PRESCRIPTION DRUG PRICE REBATES

Sec. 1369.085. DEFINITIONS. In this subchapter:

(1) "Pharmacy benefit manager" and "prescription drug" have the meanings assigned by Section 1369.501.

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

(3) "Rebate" means:

(A) a negotiated price concession, including a base price concession, without regard to whether the concession is described as a rebate, and a reasonable estimate of any price protection rebate or performance-based price concession that may accrue directly or indirectly to the health benefit plan issuer during the coverage year from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug; and

1           (B) a reasonable estimate of each negotiated  
2 price concession, fee, and other administrative cost that is passed  
3 through, or is reasonably anticipated to be passed through, to the  
4 health benefit plan issuer and reduces the health benefit plan  
5 issuer's cost of covering a prescription drug.

6           Sec. 1369.086. APPLICABILITY OF SUBCHAPTER. (a) This  
7 subchapter applies only to a health benefit plan that provides  
8 benefits for medical or surgical expenses incurred as a result of a  
9 health condition, accident, or sickness, including an individual,  
10 group, blanket, or franchise insurance policy or insurance  
11 agreement, a group hospital service contract, or an individual or  
12 group evidence of coverage or similar coverage document that is  
13 issued by:

14           (1) an insurance company;

15           (2) a group hospital service corporation operating  
16 under Chapter 842;

17           (3) a health maintenance organization operating under  
18 Chapter 843;

19           (4) an approved nonprofit health corporation that  
20 holds a certificate of authority under Chapter 844;

21           (5) a multiple employer welfare arrangement that holds  
22 a certificate of authority under Chapter 846;

23           (6) a stipulated premium company operating under  
24 Chapter 884;

25           (7) a fraternal benefit society operating under  
26 Chapter 885;

27           (8) a Lloyd's plan operating under Chapter 941; or

1           (9) an exchange operating under Chapter 942.

2           (b) Notwithstanding any other law, this subchapter applies  
3 to:

4           (1) a small employer health benefit plan subject to  
5 Chapter 1501, including coverage provided through a health group  
6 cooperative under Subchapter B of that chapter;

7           (2) a standard health benefit plan issued under  
8 Chapter 1507;

9           (3) a basic coverage plan under Chapter 1551;

10          (4) a basic plan under Chapter 1575;

11          (5) a primary care coverage plan under Chapter 1579;

12          (6) a plan providing basic coverage under Chapter  
13 1601;

14          (7) health benefits provided by or through a church  
15 benefits board under Subchapter I, Chapter 22, Business  
16 Organizations Code;

17          (8) group health coverage made available by a school  
18 district in accordance with Section 22.004, Education Code;

19          (9) a regional or local health care program operated  
20 under Section 75.104, Health and Safety Code;

21          (10) a self-funded health benefit plan sponsored by a  
22 professional employer organization under Chapter 91, Labor Code;

23          (11) county employee group health benefits provided  
24 under Chapter 157, Local Government Code; and

25          (12) health and accident coverage provided by a risk  
26 pool created under Chapter 172, Local Government Code.

27          Sec. 1369.087. EXCEPTIONS TO APPLICABILITY OF SUBCHAPTER.

1 This subchapter does not apply to an issuer or provider of health  
2 benefits under or a pharmacy benefit manager administering pharmacy  
3 benefits under:

4 (1) the state Medicaid program, including the Medicaid  
5 managed care program under Chapter 533, Government Code;

6 (2) the child health plan program under Chapter 62,  
7 Health and Safety Code;

8 (3) the TRICARE military health system; or

9 (4) a workers' compensation insurance policy or other  
10 form of providing medical benefits under Title 5, Labor Code.

11 Sec. 1369.088. APPLICATION OF PRESCRIPTION DRUG PRICE  
12 REBATES TO COST SHARING. (a) An enrollee's cost sharing amount for  
13 a prescription drug shall be calculated at the point of sale based  
14 on a price that is reduced by an amount equal to or greater than all  
15 rebates received or to be received by the enrollee's pharmacy  
16 benefit manager or health benefit plan issuer in connection with  
17 the dispensing or administration of the prescription drug to the  
18 enrollee.

19 (b) This section may not be interpreted to prohibit a health  
20 benefit plan issuer or pharmacy benefit manager from decreasing an  
21 enrollee's cost sharing amount by an amount greater than the amount  
22 required under this section.

23 (c) In complying with this section, a health benefit plan  
24 issuer or pharmacy benefit manager may not publish or otherwise  
25 reveal information regarding the actual amount of rebates the  
26 health benefit plan issuer or pharmacy benefit manager receives on  
27 a product-specific, product class-specific,

1 manufacturer-specific, or pharmacy-specific basis. The  
2 information is a trade secret and is confidential and excepted from  
3 disclosure under Chapter 552, Government Code. The health benefit  
4 plan issuer or pharmacy benefit manager may not disclose the  
5 information:

6 (1) directly or indirectly;

7 (2) in a manner that would allow for the  
8 identification of an individual product, a class of products, the  
9 manufacturer, or the pharmacy; or

10 (3) in a manner that would have the potential to  
11 compromise the financial, competitive, or proprietary nature of the  
12 information.

13 (d) A health benefit plan issuer or pharmacy benefit manager  
14 shall ensure a third party or vendor who contracts with the health  
15 benefit plan issuer or pharmacy benefit manager and may receive or  
16 have access to rebate information complies with the confidentiality  
17 required by this section.

18 SECTION 2. Subchapter B-2, Chapter 1369, Insurance Code, as  
19 added by this Act, applies only to a health benefit plan delivered,  
20 issued for delivery, or renewed on or after January 1, 2024.

21 SECTION 3. This Act takes effect September 1, 2023.