

By: Zaffirini

S.B. No. 1456

A BILL TO BE ENTITLED

AN ACT

relating to a preferred drug list program for state medical assistance programs.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. A PREFERRED DRUG LIST PROGRAM

Sec. 531.401. PURPOSE. The purpose of this subchapter is to reduce the cost of prescription drugs provided by the state through the Medicaid program.

Sec. 531.402. DEFINITIONS. In this subchapter:

(1) "Labeler" means a person that:

(A) has a labeler code from the Food and Drug Administration under 21 C.F.R. Section 207.20; and

(B) receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale.

(2) "Manufacturer" means a manufacturer of prescription drugs as defined by 42 U.S.C. Section 1396r-8(k)(5), including a subsidiary or affiliate of a manufacturer.

(3) "Wholesaler" means a person licensed under Subchapter I, Chapter 431, Health and Safety Code.

Sec. 531.403. NEGOTIATED PRESCRIPTION DRUG REBATES

(a) The commission shall negotiate with manufacturers and

1 labelers to obtain rebates or discount prices for prescription
2 drugs sold in this state. In negotiating terms for rebates or
3 discount prices, the commission shall consider:

4 (1) rebates calculated under the Medicaid rebate
5 program in accordance with 42 U.S.C. Section 1396r-8; and

6 (2) any other available information on prescription
7 drug prices, rebates, or discounts.

8 (b) A manufacturer or labeler may voluntarily negotiate
9 with the commission and enter into an agreement to provide
10 supplemental rebates for prescription drugs provided under the
11 Medicaid program in excess of the rebates required by 42 U.S.C.
12 Section 1396r-8.

13 Sec. 531.404. PRIOR AUTHORIZATION REQUIREMENTS.

14 (a) If the commission and a manufacturer or labeler fail to reach
15 an agreement on supplemental Medicaid rebates rebates, the
16 commission shall place the products of the manufacturer or labeler
17 on the state's list of products requiring prior authorization under
18 the Medicaid program.

19 (b) Placement of products on a prior authorization
20 list in accordance with this section must be conducted in a manner
21 that complies with 42 U.S.C. Section 1396r-8(d)(5).

22 SECTION 2. If before implementing any provision of this Act
23 a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2003.