By: Turner H.B. No. 3060

A BILL TO BE ENTITLED

AN ACT

relating to prescription drugs under the Medicaid vendor drug program and other state health and human services programs.

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

SECTION 1. Section 531.072, Government Code, is amended by amending Subsection (c) and adding Subsections (g) and (h) to read as follows:

(c) In making a decision regarding the placement of a drug on each of the preferred drug lists, the commission shall consider:

(1) the recommendations of the Pharmaceutical and Therapeutics Committee established under Section 531.074;

(2) the clinical efficacy of the drug;

(3) the price of competing drugs after deducting any federal and state rebate amounts and the costs that would be associated with requiring prior authorization for the drug; [~~and~~]

(4) program benefit offerings solely or in conjunction with rebates and other pricing information;

(5) cost offsets to the state and cost savings to local governments, including cost offsets and savings realized from reductions in physician office visits, emergency room treatments, and frequency or length of hospital stays that are projected to result if the drug is included on a preferred drug list because the drug, in comparison to alternate drugs, is more effective or causes fewer side effects; and

(6) the impact of the drug on a patient's quality of life.

(g) If the commission contracts with a private person to assist the commission in preparing the preferred drug lists, the contract must require the contractor to fully consider the overall costs to the public of excluding a drug from a list. Costs of excluding the drug that must be considered include:

(1) the purchase price of the drug; and

(2) the loss of:

(A) rebates paid by the manufacturer for the drug as described by Section 531.070;

(B) program benefits offered by the manufacturer as described by Section 531.070; and

(C) cost offsets and savings, including offsets and savings realized from reductions in physician office visits, emergency room treatments, and frequency or length of hospital stays that are projected to result from better effectiveness or reduced side effects from the drug in comparison to alternate drugs.

(h) A contract described by Subsection (g) may not give the contractor incentives to consider only a portion of the overall costs to the public of excluding a drug from a preferred drug list or discourage the contractor from considering the overall costs to the public of excluding the drug.

SECTION 2. Section 531.073, Government Code, is amended by adding Subsections (b-1), (g), and (h) to read as follows:

(b-1) The executive commissioner by rule shall establish

guidelines for the provision of a 72-hour supply of a drug as required by Subsection (b)(3), including a definition of the circumstances that constitute, or standards for determining whether circumstances constitute, an emergency. A pharmacy that complies with the guidelines must be reimbursed for dispensing a 72-hour supply of a drug.

(g) Prior authorization that is granted for a drug is valid until the first anniversary of the date the prior authorization was granted, or for a longer period as designated by the commission.

(h) The commission shall develop and implement procedures to ensure that patients, health care providers, and pharmacists are educated about the costs to the state of the prior authorization requirements under this section and the clinical basis for those requirements.

SECTION 3. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0731 to read as follows:

Sec. 531.0731. PRIOR AUTHORIZATION REQUIREMENTS FOR RESCUE MEDICATIONS. (a) In this section, "rescue medication" means a drug that is used in treating a patient with an illness or condition that is chronic, is life-threatening, and requires complex medical management strategies to provide quick relief from an acute symptom of that illness or condition.

(b) Section 531.073 does not apply to a drug to which the prior authorization requirements of that section would otherwise apply if:

(1) the drug is a rescue medication prescribed by a physician; and

(2) the manufacturer of the drug agrees to pay a supplemental rebate under Section 531.070 in an amount that is at least equal to the Medicaid rebates required under 42 U.S.C. Section 1396r-8.

(c) With respect to a rescue medication that does not qualify for an exemption under Subsection (b), the executive commissioner may not adopt a rule and the commission may not otherwise establish a policy that requires or has the effect of requiring a patient to respond negatively to, or fail to improve on, another medication before prior authorization for the rescue medication will be granted if, in the professional judgment of the prescribing physician, the rescue medication will:

(1) be more effective than the other drug in treating the patient's illness or condition; or

(2) reduce the likelihood that the patient will experience side effects or interactions that will negatively affect the patient's health.

(d) Notwithstanding Section 531.073(g), prior authorization that is granted for a rescue medication remains valid for an indefinite period, and the physician or patient is not required to obtain prior authorization for a subsequent prescription of that medication if the medication is prescribed to treat the illness or condition for which it was originally granted prior authorization.

SECTION 4. Section 531.074(h), Government Code, is amended to read as follows:

(h) In developing its recommendations for the preferred

drug lists, the committee shall consider the clinical efficacy, safety, and cost-effectiveness, as determined under Sections 531.072(c)(3) and (5), of a product, [~~and~~] any program benefit associated with the [~~a~~] product, and the impact of the product on a patient's quality of life.

SECTION 5. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 6. This Act takes effect September 1, 2005.