

By: West, Royce

S.B. No. 1212

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

12 (2) the clinical efficacy of the drug;

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

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

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

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

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

8 (1) the purchase price of the drug; and

9 (2) the loss of:

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

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

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

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

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

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

1 guidelines for the provision of a 72-hour supply of a drug as
2 required by Subsection (b)(3), including a definition of the
3 circumstances that constitute, or standards for determining
4 whether circumstances constitute, an emergency. A pharmacy that
5 complies with the guidelines must be reimbursed for dispensing a
6 72-hour supply of a drug.

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

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

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

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

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

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

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

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

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

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

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

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

27 (h) In developing its recommendations for the preferred

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

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

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