

BILL ANALYSIS

C.S.H.B. 3262
By: Miller, Doug
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The increased use of pharmacy benefit managers by state-funded health benefit plans, including Medicaid health maintenance organizations, to manage prescription drug benefits has created concerns regarding the lack of transparency of reimbursement methodology. According to interested parties, there is currently little regulation or oversight of practices of pharmacy benefit managers, leading to a system that creates considerable uncertainty for pharmacists and little transparency regarding how taxpayer money is being spent. C.S.H.B. 3262 seeks to provide more transparency in these practices by establishing requirements regarding the disclosure of certain information relating to the costs of medications and reimbursement rates.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3262 amends the Government Code and the Insurance Code to require a contract to provide pharmacy benefit manager services under the Medicaid managed care program, the child health plan program, the Texas Employees Group Benefits Act, the Texas Public School Retired Employees Group Benefits Act, the Texas School Employees Uniform Group Health Coverage Act, and the State University Employees Uniform Insurance Benefits Act to require the pharmacy benefit manager to establish a method of calculating, updating, and revising a maximum allowable cost for each covered medication; to establish intervals, not to exceed seven days, for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and to establish for that contract a single maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the applicable program, plan, or coverage. The bill requires such contracts to require a pharmacy benefit manager to develop and maintain a public Internet website and post and maintain on the website certain information relating to the maximum allowable cost for a medication, to notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification, to disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost, and, not less frequently than once a week, to notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

C.S.H.B. 3262 requires a contract to provide pharmacy benefit manager services under an applicable program, plan, or coverage to require the pharmacy benefit manager to provide certain information relating to the maximum allowable cost for a medication to the Health and Human Services Commission (HHSC), the board of trustees of the Employees Retirement System of Texas, the Teacher Retirement System of Texas, or the governing board of The University of Texas System or The Texas A&M University System, as applicable, and requires such entities,

on request, to provide such information to a pharmacist or pharmacy. The bill requires such a contract to require that each medication on a maximum allowable cost list be listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, be rated "NR" or "NA" by Medi-Span, or have a similar rating by a nationally recognized reference. The bill requires such a contract to require the pharmacy benefit manager to provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost; to respond to such a challenge not later than the 15th day after the date the challenge is made; if the challenge is successful, to adjust the maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract; if the challenge is denied, to provide each reason for the denial; and to report every 90 days to HHSC, the board of trustees of the Employees Retirement System of Texas, the Teacher Retirement System of Texas, or the governing board of The University of Texas System or The Texas A&M University System, as applicable, the total number of challenges made and denied in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3262 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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

SUBCHAPTER Y. PHARMACY BENEFIT MANAGERS

Sec. 531.990. APPLICABILITY.

Sec. 531.991. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) a frequency for updating or revising the maximum allowable cost; and

(C) a maximum allowable cost list that

HOUSE COMMITTEE SUBSTITUTE

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(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) Each contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) intervals not to exceed seven days for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and

(C) for that contract a single maximum

uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the child health plan program or Medicaid managed care program; and

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1).

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the commission the information required by Subsection (b)(1). On request, the commission shall provide the information to a pharmacist or pharmacy.

allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the child health plan program or Medicaid managed care program;

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1)(C);

(3) notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification;

(4) disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost; and

(5) not less frequently than once a week, notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the commission the information described by Subsections (b)(1)(B) and (C). On request, the commission shall provide the information to a pharmacist or pharmacy.

(d) A contract to provide pharmacy benefit manager services must require that each medication on a maximum allowable cost list:

(1) is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(2) is rated "NR" or "NA" by Medi-Span;
or

(3) has a similar rating by a nationally recognized reference.

(e) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost;

(2) respond to a challenge under that procedure not later than the 15th day after the date the challenge is made;

(3) if the challenge is successful, adjust the

SECTION 2. Subchapter B, Chapter 1551, Insurance Code, is amended by adding Section 1551.0671 to read as follows:

Sec. 1551.0671. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) a frequency for updating or revising the maximum allowable cost; and

(C) a maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the group benefits program; and

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1).

maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract;

(4) if the challenge is denied, provide each reason for the denial; and

(5) report every 90 days to the commission the total number of challenges made and denied in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

SECTION 2. Subchapter B, Chapter 1551, Insurance Code, is amended by adding Section 1551.0671 to read as follows:

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(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) Each contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) intervals not to exceed seven days for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and

(C) for that contract a single maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the group benefits program;

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1)(C);

(3) notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification;

(4) disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost; and

(5) not less frequently than once a week, notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the board of trustees the information required by Subsection (b)(1). On request, the board of trustees shall provide the information to a pharmacist or pharmacy.

SECTION 3. Subchapter C, Chapter 1575, Insurance Code, is amended by adding Section 1575.111 to read as follows:

Sec. 1575.111. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and

from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the board of trustees the information described by Subsections (b)(1)(B) and (C). On request, the board of trustees shall provide the information to a pharmacist or pharmacy.

(d) A contract to provide pharmacy benefit manager services must require that each medication on a maximum allowable cost list:

(1) is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(2) is rated "NR" or "NA" by Medi-Span; or

(3) has a similar rating by a nationally recognized reference.

(e) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost;

(2) respond to a challenge under that procedure not later than the 15th day after the date the challenge is made;

(3) if the challenge is successful, adjust the maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract;

(4) if the challenge is denied, provide each reason for the denial; and

(5) report every 90 days to the board of trustees the total number of challenges made and denied in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

SECTION 3. Subchapter C, Chapter 1575, Insurance Code, is amended by adding Section 1575.111 to read as follows:

Sec. 1575.111. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and

pharmaceutically equivalent multiple source medications.

(b) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) a frequency for updating or revising a maximum allowable cost; and

(C) a maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the group program; and

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1).

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the trustee the information required by Subsection (b)(1). On request, the trustee shall provide the information to a pharmacist or pharmacy.

pharmaceutically equivalent multiple source medications.

(b) Each contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) intervals not to exceed seven days for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and

(C) for that contract a single maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the group program;

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1)(C);

(3) notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification;

(4) disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost; and

(5) not less frequently than once a week, notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the trustee the information described by Subsections (b)(1)(B) and (C). On request, the trustee shall provide the information to a pharmacist or pharmacy.

(d) A contract to provide pharmacy benefit manager services must require that each medication on a maximum allowable cost list:

(1) is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(2) is rated "NR" or "NA" by Medi-Span;

or
(3) has a similar rating by a nationally recognized reference.
(e) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:
(1) provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost;
(2) respond to a challenge under that procedure not later than the 15th day after the date the challenge is made;
(3) if the challenge is successful, adjust the maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract;
(4) if the challenge is denied, provide each reason for the denial; and
(5) report every 90 days to the trustee the total number of challenges made and denied in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

SECTION 4. Subchapter B, Chapter 1579, Insurance Code, is amended by adding Section 1579.058 to read as follows:

Sec. 1579.058. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) a frequency for updating or revising a maximum allowable cost; and

(C) a maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by a health coverage plan; and

(2) develop and maintain a public Internet website and post and maintain on the website the information required by

SECTION 4. Subchapter B, Chapter 1579, Insurance Code, is amended by adding Section 1579.058 to read as follows:

Sec. 1579.058. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) Each contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) intervals not to exceed seven days for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and

(C) for that contract a single maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by a health coverage plan;

(2) develop and maintain a public Internet website and post and maintain on the website the information required by

Subdivision (1).

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the trustee the information required by Subsection (b)(1). On request, the trustee shall provide the information to a pharmacist or pharmacy.

Subdivision (1)(C):

(3) notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification;

(4) disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost; and

(5) not less frequently than once a week, notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the trustee the information described by Subsections (b)(1)(B) and (C). On request, the trustee shall provide the information to a pharmacist or pharmacy.

(d) A contract to provide pharmacy benefit manager services must require that each medication on a maximum allowable cost list:

(1) is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(2) is rated "NR" or "NA" by Medi-Span; or

(3) has a similar rating by a nationally recognized reference.

(e) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost;

(2) respond to a challenge under that procedure not later than the 15th day after the date the challenge is made;

(3) if the challenge is successful, adjust the maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract;

(4) if the challenge is denied, provide each reason for the denial; and

(5) report every 90 days to the trustee the total number of challenges made and denied

in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

SECTION 5. Subchapter B, Chapter 1601, Insurance Code, is amended by adding Section 1601.065 to read as follows:

Sec. 1601.065. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising the maximum allowable cost for each covered medication;

(B) a frequency for updating or revising a maximum allowable cost; and

(C) a maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the basic coverage; and

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1).

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the governing board of the system the information required

SECTION 5. Subchapter B, Chapter 1601, Insurance Code, is amended by adding Section 1601.065 to read as follows:

Sec. 1601.065. TRANSPARENCY IN PHARMACY BENEFIT MANAGEMENT.

(a) In this section, "maximum allowable cost" means a maximum reimbursement amount for a group of therapeutically and pharmaceutically equivalent multiple source medications.

(b) Each contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) establish:

(A) a method of calculating, updating, and revising a maximum allowable cost for each covered medication;

(B) intervals not to exceed seven days for updating or revising the maximum allowable cost for each medication on the maximum allowable cost list; and

(C) for that contract a single maximum allowable cost list that uniformly serves as a basis for the calculation of reimbursement amounts for pharmacy claims covered by the basic coverage;

(2) develop and maintain a public Internet website and post and maintain on the website the information required by Subdivision (1)(C);

(3) notify each retail pharmacy affected by a modification of a maximum allowable cost of the modification on the date of the modification;

(4) disclose the data sources from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost; and

(5) not less frequently than once a week, notify each retail pharmacy affected by the pharmacy benefit manager's substitution or deletion of, or addition to, a data source from which the pharmacy benefit manager obtains pricing data used in establishing a maximum allowable cost of the substitution, deletion, or addition.

(c) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to provide to the governing board of the system the information

by Subsection (b)(1). On request, the system shall provide the information to a pharmacist or pharmacy.

described by Subsections (b)(1)(B) and (C). On request, the system shall provide the information to a pharmacist or pharmacy.

(d) A contract to provide pharmacy benefit manager services must require that each medication on a maximum allowable cost list:

(1) is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's Drug Products with Therapeutic Equivalence Evaluations, also known as the Orange Book;

(2) is rated "NR" or "NA" by Medi-Span; or

(3) has a similar rating by a nationally recognized reference.

(e) A contract to provide pharmacy benefit manager services must require the pharmacy benefit manager to:

(1) provide a procedure for a retail pharmacy to challenge a listed maximum allowable cost;

(2) respond to a challenge under that procedure not later than the 15th day after the date the challenge is made;

(3) if the challenge is successful, adjust the maximum allowable cost effective on the date the challenge is resolved and apply the adjustment to all retail pharmacies under the contract;

(4) if the challenge is denied, provide each reason for the denial; and

(5) report every 90 days to the system the total number of challenges made and denied in the preceding 90-day period to the maximum allowable cost for each medication the maximum allowable cost of which was challenged during that period.

SECTION 6. Subchapter Y, Chapter 531, Government Code, and Sections 1551.0671, 1575.111, 1579.058, and 1601.065, Insurance Code, as added by this Act, apply only to a contract with a pharmacy benefit manager executed or renewed on or after the effective date of this Act.

SECTION 6. Subchapter Y, Chapter 531, Government Code, and Sections 1551.0671, 1575.111, 1579.058, and 1601.065, Insurance Code, as added by this Act, apply only to a contract with a pharmacy benefit manager entered into or renewed on or after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2013.

SECTION 7. Same as introduced version.