

House Bill 18
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. SHORT TITLE. This Act shall be known as "Texas Cares."

SECTION 2. PRESCRIPTION DRUG SAVINGS PROGRAM. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 65 to read as follows:

CHAPTER 65. PRESCRIPTION DRUG SAVINGS PROGRAM FOR CERTAIN UNINSURED INDIVIDUALS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 65.001. DEFINITIONS. In this chapter:

- (1) "Enrollee" means an individual enrolled in the program.
- (2) "Fund" means the trust fund established under Section 65.101.
- (3) "Pharmacy benefit manager" has the meaning assigned by Section 4151.151, Insurance Code.
- (4) "Prescription drug" has the meaning assigned by Section 551.003, Occupations Code.
- (5) "Program" means the prescription drug savings program established under this chapter.

(6) "Uninsured individual" means an individual without health benefit plan coverage for a prescription drug benefit.

Sec. 65.002. CONSTRUCTION OF CHAPTER; PURPOSE.

- (a) This chapter does not establish an entitlement to assistance in obtaining benefits for uninsured individuals.
- (b) The purpose of this chapter is to establish a program to provide uninsured individuals access to prescription drug benefits using money from the fund to pay an amount equal to the value of a prescription drug rebate at the point of sale and returning that rebate amount to the fund to ensure the amounts credited to the fund equal the amounts paid from the fund.
- (c) This chapter does not expand the Medicaid program.

SENATE VERSION (CS)

SECTION 1. Same as House version.

SECTION 2. PRESCRIPTION DRUG SAVINGS PROGRAM. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 65 to read as follows:

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Sec. 65.002. CONSTRUCTION OF CHAPTER; PURPOSE.

- (a) This chapter does not establish an entitlement to assistance in obtaining benefits for uninsured individuals.
- (b) The purpose of this chapter is to establish a program to provide uninsured individuals access to prescription drug benefits using money from the fund to pay an amount equal to the value of a prescription drug rebate at the point of sale and returning that rebate amount to the fund to ensure the amounts credited to the fund equal the amounts paid from the fund.
- (c) This chapter does not expand the Medicaid program.

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Sec. 65.003. RULES. The executive commissioner shall adopt rules as necessary to implement this chapter.

SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION DRUG SAVINGS PROGRAM

Sec. 65.051. ESTABLISHMENT OF PROGRAM. (a) The commission shall develop and design a prescription drug savings program that partners with a pharmacy benefit manager to offer prescription drugs at a discounted rate to uninsured individuals.

(b) In developing and implementing the program, the commission shall ensure the program benefits do not include prescription drugs used for the elective termination of a pregnancy.

(c) The executive commissioner shall ensure the program is designed to provide the greatest possible value to uninsured individuals served by the program, while considering the adequacy of the prescription drug formulary, net costs of the drugs to enrollees, cost to the state, and other important factors determined by the commission.

Sec. 65.052. GENERAL POWERS AND DUTIES OF COMMISSION RELATED TO PROGRAM. (a) The commission shall oversee the implementation of the program and coordinate the activities of each state agency involved in that implementation.

(b) The commission shall design the program to be cost neutral by collecting prescription drug rebates after using money in the fund in amounts equal to the rebate amounts to purchase prescription drugs.

(c) The commission shall develop procedures for accepting applications for program enrollment, including a process to:

(1) determine eligibility, screening, and enrollment

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procedures that allow applicants to self attest to the extent authorized by federal law; and

(2) resolve disputes related to eligibility determinations.

(d) The commission shall publish on an Internet website all average consumer costs for each prescription drug available through the program.

(e) The commission and the contracted pharmacy benefit manager shall integrate manufacturer and other third-party patient assistance programs into the program to the extent feasible. A manufacturer or other third party may decline to link the manufacturer's or third party's patient assistance program to the program. The commission shall give preference to integrating patient assistance programs by listing information on those patient assistance programs in a central location on the Internet website described by Subsection (d) that directs patients to those patient assistance programs as appropriate.

(f) The commission shall ensure the program has access to an adequate pharmacy network and give preference to conducting the program using a state pharmaceutical assistance program.

(g) The commission is not required to enter into stand-alone contracts under this chapter. The commission may add the program, wholly or partly, to existing contracts to increase efficiency.

Sec. 65.053. PHARMACY BENEFIT MANAGER CONTRACT, MONITORING, AND REPORTING REQUIREMENTS. (a) The commission shall contract with a pharmacy benefit manager to provide discounted prescription drugs to enrollees under the program.

(b) The commission shall monitor through reporting or other methods the contracted pharmacy benefit manager to ensure performance under the contract and quality delivery of

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services.

(c) The contracted pharmacy benefit manager shall report to the commission on the commission's request information related to the program, including information on rebate amounts, prescription drug rates contracted with pharmacies, administrative costs, and out-of-pocket costs paid by enrollees at the point of sale of the prescription drugs.

Sec. 65.054. CONTRACT FUNCTIONS. (a) The commission may contract with a third-party administrator or other entity to perform any or all program functions for the commission under this chapter and may delegate decisions about the policies of the program to the third-party administrator or other entity.

(b) A third-party administrator or other entity may perform tasks under a contract entered into under Subsection (a) that would otherwise be performed by the commission.

Sec. 65.055. COMMUNITY OUTREACH CAMPAIGN. The commission shall conduct or contract to conduct a community outreach and education campaign in the form and manner determined by the commission to provide information on the program's availability to eligible individuals.

SUBCHAPTER C. TRUST FUND; PROGRAM SUSPENSION

Sec. 65.101. ESTABLISHMENT OF FUND. (a) A trust fund is established outside the state treasury for the purposes of this chapter only if this state receives federal money that may be used for the purposes of this chapter and that federal money is directed to be deposited to the credit of the fund as provided by law.

(b) The fund consists of:

(1) gifts, grants, and donations received by this state for the purposes of the fund;

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services.

(c) The contracted pharmacy benefit manager shall report to the commission on the commission's request information related to the program, including information on rebate amounts, prescription drug rates contracted with pharmacies, administrative costs, and out-of-pocket costs paid by enrollees at the point of sale of the prescription drugs.

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(2) legislative appropriations of money for the purposes of this chapter;

(3) federal money available to this state that by law may be used for the purposes of this chapter; and

(4) interest, dividends, and other income of the fund.

(c) The commission shall administer the fund as trustee for the benefit of the program established by this chapter.

(d) Money in the fund may be used only to administer the program and provide program services.

(e) The commission shall ensure money spent from the fund to assist enrollees in purchasing prescription drugs is cost neutral after collecting the prescription drug rebates under the program.

(f) The commission may solicit and accept gifts, grants, and donations for the fund.

Sec. 65.102. **FEDERAL MONEY REQUIRED.** Notwithstanding any other provision of this chapter, the commission may not implement the program unless federal money is provided to this state and by law made available for deposit to the credit of the fund.

Sec. 65.1025. **INITIAL COSTS.** (a) The commission may pay the program's one-time start-up costs only with federal money in the fund.

(b) This section expires September 1, 2025.

Sec. 65.103. **SUSPENSION OF PROGRAM.** On the fourth anniversary of the date the program is established, the commission shall suspend the program and seek legislative approval to continue the program if the federal money in the fund available to be used for the program's one-time start-up costs is depleted and the ongoing costs of administering the program are not fully funded through enrollee cost sharing.

SUBCHAPTER D. PROGRAM ELIGIBILITY AND

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(2) legislative appropriations of money for the purposes of this chapter;

(3) federal money available to this state that by law may be used for the purposes of this chapter; and

(4) interest, dividends, and other income of the fund.

(c) The commission shall administer the fund as trustee for the benefit of the program established by this chapter.

(d) Money in the fund may be used only to administer the program and provide program services.

(e) The commission shall ensure money spent from the fund to assist enrollees in purchasing prescription drugs is cost neutral after collecting the prescription drug rebates under the program.

(f) The commission may solicit and accept gifts, grants, and donations for the fund.

Sec. 65.102. **SUFFICIENT FUNDING REQUIRED.** Notwithstanding any other provision of this chapter, the commission is not required to implement the program unless money is provided and by law made available for deposit to the credit of the fund.

Sec. 65.103. **SUSPENSION OF PROGRAM.** On the fourth anniversary of the date the program is established, the commission shall suspend the program and seek legislative approval to continue the program unless the ongoing costs of administering the program are fully funded through enrollee cost sharing.

SUBCHAPTER D. PROGRAM ELIGIBILITY AND

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ENROLLEE REQUIREMENTS

Sec. 65.151. ELIGIBILITY CRITERIA. (a) Except as provided by Subsection (b), an individual is eligible for benefits under the program if the individual is:

- (1) a resident of this state;
- (2) a citizen or lawful permanent resident of the United States; and
- (3) uninsured, as determined by the commission.

(b) If the commission determines necessary, the commission may consider an applicant's financial vulnerability as an additional factor for determining program eligibility.

Sec. 65.152. COST SHARING. (a) To the extent necessary, the commission shall require enrollees to share the cost of the program, including requiring enrollees to pay a copayment at the point of sale of a prescription drug.

(b) The commission must:

- (1) allow an enrollee to pay all or part of the enrollee's share from any source the enrollee selects; and
- (2) accept another assistance program if that assistance program wholly or partly covers the enrollee share of the prescription drug cost.

(c) The commission shall require an enrollee to pay a copayment to compensate the pharmacy, pharmacy benefit manager, and commission for the costs of administering the program in accordance with Subsection (d) and under the methodology determined by the commission.

(d) Enrollees shall pay the costs of ongoing administration of the program through an additional charge at the point of sale of an eligible prescription drug only if the total number of enrollees in the program allows for the additional charge to be an amount not to exceed the lesser of:

- (1) \$4; or

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ENROLLEE REQUIREMENTS

Sec. 65.151. ELIGIBILITY CRITERIA. (a) Except as provided by Subsection (b), an individual is eligible for benefits under the program if the individual is:

- (1) a resident of this state;
- (2) a citizen or lawful permanent resident of the United States; and
- (3) uninsured, as determined by the commission.

(b) If the commission determines necessary, the commission may consider an applicant's financial vulnerability as an additional factor for determining program eligibility.

Sec. 65.152. COST SHARING. (a) To the extent necessary, the commission shall require enrollees to share the cost of the program, including requiring enrollees to pay a copayment at the point of sale of a prescription drug.

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- (2) accept another assistance program if that assistance program wholly or partly covers the enrollee share of the prescription drug cost.

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(d) Enrollees shall pay the costs of ongoing administration of the program through an additional charge at the point of sale of an eligible prescription drug only if the total number of enrollees in the program allows for the additional charge to be an amount not to exceed the lesser of:

- (1) an amount similar to the amount charged for a

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(2) 10 percent of the total amount charged at the point of sale for the prescription drug.

SUBCHAPTER E. OPERATION OF PROGRAM

Sec. 65.201. PROGRAM BENEFITS. The commission must approve program benefits offered under this chapter. The commission shall ensure the benefits comply with all applicable federal and state laws, rules, and regulations.

Sec. 65.202. REPORTING. (a) A third-party administrator, pharmacy benefit manager, or any other entity the commission contracts with under Section 65.054 shall report to the commission in the form and manner prescribed by the commission on the benefits and services provided under the program.

(b) The commission shall establish a procedure to monitor the provision of benefits and services under this chapter.

Sec. 65.203. FRAUD PREVENTION. The executive commissioner by rule shall develop and implement fraud prevention and detection for pharmacy benefit managers, contracted third parties, and other entities involved in the program.

Sec. 65.204. ANNUAL PROGRAM REPORTS. Not later than December 1 of each year, the commission shall provide a written report to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the legislature with primary jurisdiction over the program. The report must include:

(1) a line-item list of all program administrative costs incurred by the commission;

(2) the amount of the pharmacy benefit manager and third-party administrator fees;

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prescription drug in other state pharmaceutical assistance programs administered by the commission; or

(2) 10 percent of the total amount charged at the point of sale for the prescription drug.

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(3) the aggregate amounts of rebates anticipated and received for the program; and
(4) other program expenditures as the commission determines appropriate.

SECTION 3. INSULIN STUDY. (a) In this section, "commission" means the Health and Human Services Commission.

(b) The commission shall conduct a study on the development and implementation of the prescription drug savings program established by Chapter 65, Health and Safety Code, as added by this Act, in providing post-rebate insulin to enrollees. The commission shall determine the effectiveness of the program in providing insulin-related services to uninsured individuals in this state and any legislative recommendations for improvements to the program.

(c) Not later than February 14, 2023, the commission shall provide a written report of the results of the study conducted under Subsection (b) of this section to the governor, lieutenant governor, speaker of the house of representatives, and members of the standing committees of the legislature with primary jurisdiction over the commission. The study must include at least six months of information on use by and cost to enrollees for prescription insulin.

SECTION 4. GENERAL STUDY. (a) In this section, "commission" means the Health and Human Services Commission.

(b) The commission shall conduct a study on the development and implementation of the prescription drug savings program

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(3) the aggregate amounts of rebates anticipated and received for the program; and
(4) other program expenditures as the commission determines appropriate.

SECTION 3. Same as House version.

SECTION 4. GENERAL STUDY. (a) In this section, "commission" means the Health and Human Services Commission.

(b) The commission shall conduct a study on the development and implementation of the prescription drug savings program

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established by Chapter 65, Health and Safety Code, as added by this Act, in providing to enrollees all of the post-rebate formulary of prescription drugs. The commission shall determine the effectiveness of the program in providing insulin-related services to uninsured individuals in this state and any legislative recommendations for improvements to the program.

(c) Not later than February 14, 2025, the commission shall provide a written report on the results of the study conducted under Subsection (b) of this section to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the legislature with primary jurisdiction over the commission. The study must include at least one year of information on use by and cost to enrollees for all of the formulary of prescription drugs.

SECTION 5. TRANSITION. The Health and Human Services Commission is not required to submit the initial report under Section 65.204, Health and Safety Code, as added by this Act, until December 1, 2022.

SECTION 6. RULES. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission and any other state

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established by Chapter 65, Health and Safety Code, as added by this Act, in providing to enrollees all of the post-rebate formulary of prescription drugs. The commission shall determine the effectiveness of the program in providing prescription drug-related services to uninsured individuals in this state and any legislative recommendations for improvements to the program.

(c) Not later than February 14, 2025, the commission shall provide a written report on the results of the study conducted under Subsection (b) of this section to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the legislature with primary jurisdiction over the commission. The study must include at least one year of information on use by and cost to enrollees for all of the formulary of prescription drugs.

SECTION 5. TRANSITION. (a) The Health and Human Services Commission is not required to submit the initial report under Section 65.204, Health and Safety Code, as added by this Act, until December 1, 2022.

(b) The Health and Human Services Commission is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Health and Human Services Commission may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 6. Same as House version.

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agency designated by the executive commissioner shall adopt rules necessary to implement Chapter 65, Health and Safety Code, as added by this Act.		
SECTION 7. EFFECTIVE DATE. This Act takes effect September 1, 2021.	SECTION 7. Same as House version.	