

BILL ANALYSIS

H.B. 2180
By: Harris, Cody
Health Care Reform, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has become common practice for pharmacy benefit managers, on behalf of health benefit plan issuers, to negotiate with pharmaceutical manufacturers to determine prescription drug prices. These negotiations can result in pharmaceutical manufacturers providing significant rebates to the pharmacy benefit managers to bring down the cost of prescription drugs. According to the National Alliance on Mental Illness (NAMI) Texas and other stakeholders, the amount a patient pays in deductibles, coinsurance, or other cost-sharing responsibilities is often based on the full list price of the medicine, even though the pharmacy benefit manager only pays the discounted amount they negotiated with the manufacturer. H.B. 2180 seeks to pass these rebates to the point of sale and reduce patients' out-of-pocket expenses by requiring enrollee cost sharing to be based on an amount that takes such a rebate or other cost reduction into consideration.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 2180 amends the Insurance Code to require an applicable health benefit plan enrollee's cost sharing amount for a prescription drug to be calculated at the point of sale based on a price that is reduced by an amount equal to or greater than all rebates received or to be received by the enrollee's pharmacy benefit manager or health benefit plan issuer in connection with the dispensing or administration of the prescription drug to the enrollee. This provision may not be interpreted to prohibit a health benefit plan issuer or pharmacy benefit manager from decreasing an enrollee's cost sharing amount by an amount greater than the amount provided by the bill.

H.B. 2180 prohibits a health benefit plan issuer or pharmacy benefit manager from publishing or otherwise revealing information regarding the actual amount of rebates the plan issuer or benefit manager receives on a product-specific, product class-specific, manufacturer-specific, or pharmacy-specific basis. Such information is a trade secret and is confidential and excepted from disclosure under state public information law. The bill prohibits the plan issuer or benefit manager from disclosing the information in the following manner:

- directly or indirectly;
- in a manner that would allow for the identification of an individual product, a class of products, the manufacturer, or the pharmacy; or
- in a manner that would have the potential to compromise the financial, competitive, or proprietary nature of the information.

The bill requires a health benefit plan issuer or pharmacy benefit manager to ensure a third party or vendor who contracts with the plan issuer or benefit manager and who may receive or have access to rebate information complies with the bill's confidentiality requirements.

H.B. 2180 defines "rebate" as follows:

- a negotiated price concession, including a base price concession, without regard to whether the concession is described as a rebate, and a reasonable estimate of any price protection rebate or performance-based price concession that may accrue directly or indirectly to the health benefit plan issuer during the coverage year from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug; and
- a reasonable estimate of each negotiated price concession, fee, and other administrative cost that is passed through, or is reasonably anticipated to be passed through, to the plan issuer and reduces the plan issuer's cost of covering a prescription drug.

The bill defines "price protection rebate" as a negotiated price concession that accrues directly or indirectly to the health benefit plan issuer or other party on behalf of the health benefit plan issuer in the event of an increase in the wholesale acquisition cost of a drug above a specified threshold.

H.B. 2180 specifies the types of plans to which its provisions apply and establishes exceptions to that applicability with respect to Medicaid, CHIP, TRICARE, and workers' compensation. The bill applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2024.

EFFECTIVE DATE

September 1, 2023.