

BILL ANALYSIS

Senate Research Center
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S.B. 1619
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State Medicaid programs reimburse pharmacies for prescription drugs provided to Medicaid patients at the usual and customary (U&C) price of the drug as determined by the pharmacy. U&C is the price the pharmacy most frequently charges for the same drug, which means the pharmacy is required to consider past-pricing data in actual transactions with uninsured customers to determine the most frequent price for the same drug. The average price is used if a most frequent price cannot be determined. The Texas Vendor Drug Program (VDP), among other things, processes outpatient pharmacy claims for patients enrolled in traditional Medicaid and other programs.

A 2020 reimbursement policy change by the VDP would make Texas the first state to require pharmacies to include the prices of third-party pharmacy discount cards—such as GoodRx—in a pharmacy's U&C price calculations. No other state or the Centers for Medicare and Medicaid Services currently requires pharmacies to include third-party discount card prices in U&C calculations.

An unintended consequence is that Medicaid may reimburse pharmacies at a lower amount because of a discount card which the pharmacy had no involvement in. Pharmacies often dispense at a loss when a discount card is used. Factoring these discount card costs into the U&C price for purposes of Medicaid reimbursement will harm the pharmacies.

Another unintended consequence is that pharmacies may have to increase their prices to offset the losses due to new U&C calculations.

S.B. 1619 prohibits the Health and Human Services Commission from considering third-party discount card prices in the calculation of usual and customary prices.

As proposed, S.B. 1619 amends current law relating to the determination of prescription drug reimbursement amounts under the Medicaid vendor drug program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 32.0462, Human Resources Code, by adding Subsection (a-1), as follows:

(a-1) Provides that in determining the usual and customary price of a prescription drug for purposes of determining the reimbursement amount for that drug under Subsection (a)(1), the Health and Human Services Commission is required to exclude any discount price offered for the prescription drug, including a discount offered through a third-party discount card.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: September 1, 2023.