By:  Oliverson, Morales of Maverick H.B. No. 3026

A BILL TO BE ENTITLED

AN ACT

relating to the administration of a prescription drug manufacturer or third-party prescription assistance program.

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

SECTION 1.  Section 65.002(b), Health and Safety Code, is amended to read as follows:

(b)  The purpose of this chapter is to authorize the commission 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.

SECTION 2.  Section 65.051(a), Health and Safety Code, is amended to read as follows:

(a)  The commission may [~~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.

SECTION 3.  Section 65.204, Health and Safety Code, is amended to read as follows:

Sec. 65.204.  ANNUAL PROGRAM REPORTS. Not later than December 1 of each year following the first year in which the program is established, 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;

(3)  the aggregate amounts of rebates anticipated and received for the program; and

(4)  other program expenditures as the commission determines appropriate.

SECTION 4.  Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 66 to read as follows:

CHAPTER 66. PRESCRIPTION DRUG ASSISTANCE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001.  DEFINITIONS. In this chapter:

(1)  "Prescription drug" has the meaning assigned by Section 551.003, Occupations Code.

(2)  "Program" means the prescription drug assistance program established under this chapter.

Sec. 66.002.  CONSTRUCTION OF CHAPTER; PURPOSE. (a) This chapter does not establish an entitlement to assistance in obtaining benefits for certain individuals.

(b)  The purpose of this chapter is to authorize the commission to establish a program to provide certain individuals access to prescription drug benefits using a prescription drug manufacturer or third-party prescription assistance programs.

(c)  This chapter does not expand the Medicaid program.

Sec. 66.003.  RULES. The executive commissioner may adopt the rules necessary to implement this chapter.

SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION DRUG ASSISTANCE PROGRAM

Sec. 66.051.  ESTABLISHMENT OF PROGRAM. (a) The commission shall develop and design a prescription drug assistance program to increase access to prescription drugs for certain individuals through a prescription drug manufacturer or other third-party patient assistance program.

(b)  In developing and implementing the program, the commission may not exclude from the program benefits prescription drugs used for the elective termination of a pregnancy if the drug is prescribed:

(1)  for a purpose other than the elective termination of a pregnancy; or

(2)  to terminate a pregnancy in accordance with an exception under Section 170A.002.

(c)  The commission shall ensure the program is designed to provide the greatest value to program enrollees by considering:

(1)  the adequacy of prescription drugs available through the program;

(2)  the net costs of the drugs to enrollees;

(3)  the cost to this state; and

(4)  other important factors as determined by the commission.

Sec. 66.052.  GENERAL POWERS AND DUTIES OF COMMISSION. (a) The commission shall oversee the implementation of the program and develop procedures for accepting applications for program enrollment.

(b)  The commission shall list in a central location on the commission's Internet website information that directs a patient to the appropriate assistance available under the program.

(c)  To the extent feasible, the commission shall integrate a prescription drug manufacturer or third-party patient assistance program into the prescription drug assistance program. A prescription drug manufacturer or other third party may decline to link the prescription drug manufacturer's or third party's patient assistance program to the prescription drug assistance program.

Sec. 66.053.  CONTRACT AND GRANT AUTHORITY. (a) The commission may contract with a third-party administrator or other entity to perform any or all of the commission's program duties under this chapter.

(b)  A third-party administrator or other entity under a contract entered into under Subsection (a) may perform the actions the commission would otherwise perform to implement the program.

(c)  The commission may award grants to or enter into other arrangements with a governmental entity or nonprofit organization to implement this chapter.

Sec. 66.054.  COMMUNITY OUTREACH AND EDUCATION CAMPAIGN. The commission shall conduct a community outreach and education campaign to provide information on the program's availability to eligible individuals.

SUBCHAPTER C. FUNDING; PROGRAM SUSPENSION

Sec. 66.101.  FUNDING. (a) The commission may accept and use money to implement this chapter, including:

(1)  gifts, grants, and donations;

(2)  legislative appropriations; and

(3)  federal money available under law.

(b)  Money accepted under Subsection (a) may be used only to administer the prescription drug assistance program and provide program services.

Sec. 66.102.  SUFFICIENT FUNDING REQUIRED. Notwithstanding any other provision of this chapter, the commission is not required to implement the program unless appropriated money is made available for the program.

SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

Sec. 66.151.  ELIGIBILITY CRITERIA. (a) Except as provided by Subsection (b), an individual is eligible for benefits under the program if the individual meets eligibility criteria as determined by a prescription drug manufacturer or other third party's prescription assistance program.

(b)  The commission may identify additional factors the program must consider for program eligibility.

SUBCHAPTER E. OPERATION OF PROGRAM

Sec. 66.201.  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 and rules.

Sec. 66.202.  REPORT. (a) A third-party administrator or other entity the commission contracts with under Section 66.053 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. 66.203.  ANNUAL PROGRAM REPORT. 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, including costs incurred by a third-party administrator or other entity;

(2)  the aggregate amount of prescription drug cost savings accrued under the program; and

(3)  other program expenditures as the commission determines appropriate.

SECTION 5.  Section 65.102, Health and Safety Code, is repealed.

SECTION 6.    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 7.  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 agency designated by the executive commissioner shall adopt rules necessary to implement Chapter 65, Health and Safety Code, as amended by this Act, and Chapter 66, Health and Safety Code, as added by this Act.

SECTION 8.  This Act takes effect September 1, 2023.