

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

1 report to the governor, lieutenant governor, speaker of the house
2 of representatives, and standing committees of the legislature with
3 primary jurisdiction over the program. The report must include:

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

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

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

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

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

14 CHAPTER 66. PRESCRIPTION DRUG ASSISTANCE PROGRAM

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Sec. 66.001. DEFINITIONS. In this chapter:

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

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

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

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

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

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

4 SUBCHAPTER B. ESTABLISHMENT AND ADMINISTRATION OF PRESCRIPTION
5 DRUG ASSISTANCE PROGRAM

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

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

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

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

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

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

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

24 (3) the cost to this state; and

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

27 Sec. 66.052. GENERAL POWERS AND DUTIES OF COMMISSION. (a)

1 The commission shall oversee the implementation of the program and
2 develop procedures for accepting applications for program
3 enrollment.

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

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

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

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

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

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

27 SUBCHAPTER C. FUNDING; PROGRAM SUSPENSION

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

3 (1) gifts, grants, and donations;

4 (2) legislative appropriations; and

5 (3) federal money available under law.

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

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

13 SUBCHAPTER D. PROGRAM ELIGIBILITY AND ENROLLEE REQUIREMENTS

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

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

21 SUBCHAPTER E. OPERATION OF PROGRAM

22 Sec. 66.201. PROGRAM BENEFITS. The commission must approve
23 program benefits offered under this chapter. The commission shall
24 ensure the benefits comply with all applicable federal and state
25 laws and rules.

26 Sec. 66.202. REPORT. (a) A third-party administrator or
27 other entity the commission contracts with under Section 66.053

1 shall report to the commission in the form and manner prescribed by
2 the commission on the benefits and services provided under the
3 program.

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

6 Sec. 66.203. ANNUAL PROGRAM REPORT. Not later than
7 December 1 of each year, the commission shall provide a written
8 report to the governor, lieutenant governor, speaker of the house
9 of representatives, and standing committees of the legislature with
10 primary jurisdiction over the program. The report must include:

11 (1) a line-item list of all program administrative
12 costs incurred by the commission, including costs incurred by a
13 third-party administrator or other entity;

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

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

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

20 SECTION 6. The Health and Human Services Commission is
21 required to implement a provision of this Act only if the
22 legislature appropriates money specifically for that purpose. If
23 the legislature does not appropriate money specifically for that
24 purpose, the Health and Human Services Commission may, but is not
25 required to, implement a provision of this Act using other
26 appropriations available for that purpose.

27 SECTION 7. As soon as practicable after the effective date

1 of this Act, the executive commissioner of the Health and Human
2 Services Commission and any other state agency designated by the
3 executive commissioner shall adopt rules necessary to implement
4 Chapter 65, Health and Safety Code, as amended by this Act, and
5 Chapter 66, Health and Safety Code, as added by this Act.

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