

Senate Bill 286

By: Senators Watson of the 1st, Kirkpatrick of the 32nd, Orrock of the 36th, Hufstetler of the 52nd and Butler of the 55th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to
2 regulation and licensure of pharmacy benefits managers, so as to provide for definitions; to
3 require pharmacy benefits managers to calculate defined cost sharing for insureds at the point
4 of sale; to provide for statutory construction; to provide for violations; to provide for
5 limitations; to provide for annual reporting; to provide for confidentiality; to provide for
6 related matters; to provide for a short title; to provide for an effective date and applicability;
7 to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Lowering Prescription Drug Costs for
11 Patients Act."

12 **SECTION 2.**

13 Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and
14 licensure of pharmacy benefits managers, is amended in Code Section 33-64-1, relating to
15 definitions, by revising paragraph (13) and by adding new paragraphs to read as follows:

16 "(2.1) 'Defined cost sharing' means any coinsurance or deductible amounts imposed on
17 an insured for a covered prescription drug under the insured's health plan."

18 "(12.1) 'Price protection rebate' means a negotiated price concession that accrues directly
19 or indirectly to the pharmacy benefits manager or its health plan client, or other party on
20 behalf of the pharmacy benefits manager, in the event of an increase in the wholesale
21 acquisition cost of a drug above a specified threshold."

22 "(13) 'Rebate' means: ~~any and all payments~~

23 (A) Negotiated price concessions, including, but not limited to, base price concessions,
24 whether described as a rebate or otherwise, and reasonable estimates of any price
25 protection rebates and performance based price concessions that may accrue to a
26 pharmacy benefits manager or its health plan client, directly or indirectly, including
27 through an affiliate, subsidiary, third party, or intermediary, from a pharmaceutical
28 manufacturer, dispensing pharmacy, or other party in connection with the dispensing
29 or administration of a prescription drug, including, but not limited to, discounts,
30 administration fees, credits, incentives, or penalties associated directly or indirectly in
31 any way with claims administered on behalf of a health plan client; and

32 (B) Reasonable estimates of any negotiated price concessions, fees, and other
33 administrative costs that are passed through, or are reasonably anticipated to be passed
34 through, to the pharmacy benefits manager or its health plan client and serve to reduce
35 the pharmacy benefits manager's or its health plan client's costs for acquiring a
36 prescription drug."

37 **SECTION 3.**

38 Said chapter is further amended by adding a new Code section to read as follows:

39 "33-64-10.1.

40 (a) As used in this Code section, the term 'health plan' means an individual or group plan
41 or program that is subject to the provisions of this title and offers health insurance

42 coverage, as defined in 42 U.S.C. Sec. 300gg-91, including any of the costs of healthcare,
43 medical care, or pharmacy services, drugs, or devices, except that such term shall not
44 include any healthcare coverage provided under the state health benefit plan pursuant to
45 Article 1 of Chapter 18 of Title 45, the medical assistance program pursuant to Article 7
46 of Chapter 4 of Title 49, the PeachCare for Kids Program pursuant to Article 13 of Chapter
47 5 of Title 49, or any other health benefit plan or policy administered by or on behalf of this
48 state.

49 (b) An insured's defined cost sharing for each prescription drug shall be calculated at the
50 point of sale based on a price that is reduced by an amount equal to at least 80 percent of
51 all rebates received, or to be received, in connection with the dispensing or administration
52 of the prescription drug.

53 (c) Nothing in subsection (a) or (b) of this Code section shall preclude a pharmacy benefits
54 manager or its health plan client from decreasing an insured's defined cost sharing by an
55 amount greater than that required under subsection (b) of this Code section.

56 (d) In addition to any other remedy provided by law, any violation of this Code section by
57 a pharmacy benefits manager shall constitute an unfair or deceptive trade practice pursuant
58 to Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'

59 (e) In implementing the requirements of this Code section, the Commissioner shall only
60 regulate a pharmacy benefits manager or its health plan client to the extent permissible
61 under applicable law.

62 (f) A pharmacy benefits manager shall annually report to the department the aggregate
63 amount of rebates passed through to insureds at the point of sale for the previous calendar
64 year. Such report shall be submitted in conjunction with the report required to be
65 submitted to the department pursuant to subsection (b) of Code Section 33-64-10.
66 Beginning January 15, 2025, and annually thereafter, the department shall report the
67 aggregate rebate information submitted by pharmacy benefits managers to the House
68 Committee on Health and the Senate Health and Human Services Committee.

69 (g) In complying with the provisions of this Code section, a pharmacy benefits manager
70 or its agents shall not publish or otherwise reveal information regarding the actual amount
71 of rebates the pharmacy benefits manager or its health plan client receives on a product or
72 therapeutic class of products, manufacturer, or pharmacy-specific basis. Such information
73 shall be deemed a protected trade secret pursuant to Code Section 10-1-761; shall not be
74 subject to Article 4 of Chapter 18 of Title 50, relating to open records; and shall not be
75 disclosed directly or indirectly or in a manner that would allow for the identification of an
76 individual product, therapeutic class of products, or manufacturer, or in a manner that
77 would have the potential to compromise the financial, competitive, or proprietary nature
78 of the information. A pharmacy benefits manager shall impose the confidentiality
79 protections of this subsection on any vendor or downstream third party that performs health
80 care or administrative services on behalf of the pharmacy benefits manager and that may
81 receive or have access to rebate information.
82 (h) This Code section shall not apply to self-funded, employer sponsored health insurance
83 plans regulated under the Employee Retirement Income Security Act of 1974, as codified
84 and amended at 29 U.S.C. Section 1001, et seq."

85 **SECTION 4.**

86 This Act shall become effective on January 1, 2024, and shall apply to all policies issued,
87 delivered, issued for delivery, or renewed in this state on or after such date.

88 **SECTION 5.**

89 All laws and parts of laws in conflict with this Act are repealed.