



SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 131 be amended to read as follows:

- 1 Page 3, after line 19, begin a new paragraph and insert:
2 "SECTION 3. IC 27-8-5-32 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2022]: **Sec. 32. (a) As used in this section, "covered
5 individual" means an individual who is entitled to coverage under
6 a policy of accident and sickness insurance.**
7 **(b) As used in this section, "defined cost sharing" means a
8 deductible payment or coinsurance amount imposed on an insured
9 for a covered prescription drug under the covered individual's
10 policy of accident and sickness insurance.**
11 **(c) As used in this section, "insurer" means an insurer that
12 issues a policy of accident and sickness insurance.**
13 **(d) As used in this section, "price protection rebate" means a
14 negotiated price concession that accrues directly or indirectly to an
15 insurer or another party on behalf of an insurer if there is an
16 increase in the wholesale acquisition cost of a prescription drug
17 above a specified threshold.**
18 **(e) As used in this section, "rebate" means a discount or other
19 negotiated price concession, including base price concessions
20 (whether described as a "rebate" or otherwise), price protection
21 rebates, and performance based price concessions, that may accrue
22 directly or indirectly or are anticipated to be passed through to an
23 insurer from a manufacturer, dispensing pharmacy, or other party
24 in connection with the dispensing or administration of a
25 prescription drug to reduce the insurer's liability for the
26 prescription drug.**
27 **(f) A covered individual's defined cost sharing for a prescription
28 drug must be:**

- 1 (1) calculated at the point of sale; and
 2 (2) based on a price that is reduced by an amount equal to at
 3 least eighty-five percent (85%) of all rebates received or
 4 estimated to be received by the insurer in connection with the
 5 dispensing or administration of the prescription drug.

6 (g) Nothing in this section prohibits an insurer from decreasing
 7 a covered individual's defined cost sharing by an amount greater
 8 than the amount required under subsection (f).

9 (h) The department of insurance may enforce the requirements
 10 of this section to the extent permissible under applicable law.

11 (i) The commissioner may take appropriate action to enforce
 12 this section by imposing a civil penalty not to exceed ten thousand
 13 dollars (\$10,000) per violation.

14 (j) In complying with the requirements of this section, an
 15 insurer or an insurer's agent may not publish or otherwise reveal
 16 information regarding the actual amount of rebates the insurer
 17 receives on a product, manufacturer, or pharmacy specific basis.
 18 This information is protected as a trade secret (as defined in
 19 IC 24-2-3-2) and may not be published or otherwise disclosed
 20 directly or indirectly.

21 SECTION 4. IC 27-13-7-28 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 23 JANUARY 1, 2022]: Sec. 28. (a) As used in this section, "defined
 24 cost sharing" means a deductible payment or coinsurance amount
 25 imposed on an enrollee for a covered prescription drug under the
 26 enrollee's health maintenance organization contract.

27 (b) As used in this section, "enrollee" has the meaning set forth
 28 in IC 27-13-1-12.

29 (c) As used in this section, "health maintenance organization"
 30 has the meaning set forth in IC 27-13-1-19. The term includes a
 31 limited service health maintenance organization and a person that
 32 administers health care service benefits on behalf of a health
 33 maintenance organization or a limited service health maintenance
 34 organization.

35 (d) As used in this section, "price protection rebate" means a
 36 negotiated price concession that accrues directly or indirectly to a
 37 health maintenance organization or other party on behalf of the
 38 health maintenance organization if there is an increase in the
 39 wholesale acquisition cost of a prescription drug above a specified
 40 threshold.

41 (e) As used in this section, "rebate" means a discount or other
 42 negotiated price concession, including base price concessions
 43 (whether described as a "rebate" or otherwise), price protection
 44 rebates, and performance based price concessions, that may accrue
 45 directly or indirectly or are anticipated to be passed through to a
 46 health maintenance organization from a manufacturer, dispensing
 47 pharmacy, or other party in connection with the dispensing or

1 administration of a prescription drug to reduce the health
2 maintenance organization's liability for the prescription drug.

3 (f) An enrollee's defined cost sharing for a prescription drug
4 must be:

5 (1) calculated at the point of sale; and

6 (2) based on a price that is reduced by an amount equal to at
7 least eighty-five percent (85%) of all rebates received or
8 estimated to be received by the health maintenance
9 organization in connection with the dispensing or
10 administration of the prescription drug.

11 (g) Nothing in this section prohibits a health maintenance
12 organization from decreasing an enrollee's defined cost sharing by
13 an amount greater than the amount required under subsection (f).

14 (h) The department of insurance may enforce the requirements
15 of this section to the extent permissible under applicable law.

16 (i) The commissioner may take appropriate action to enforce
17 this section by imposing a civil penalty not to exceed ten thousand
18 dollars (\$10,000) per violation.

19 (j) In complying with the requirements of this section, a health
20 maintenance organization or a health maintenance organization's
21 agent may not publish or otherwise reveal information regarding
22 the actual amount of rebates the health maintenance organization
23 receives on a product, manufacturer, or pharmacy specific basis.
24 This information is protected as a trade secret (as defined in
25 IC 24-2-3-2) and may not be published or otherwise disclosed
26 directly or indirectly."

(Reference is to SB 131 as printed February 5, 2021.)

Senator BECKER