



Reprinted
February 19, 2021

SENATE BILL No. 131

DIGEST OF SB 131 (Updated February 18, 2021 3:22 pm - DI 137)

Citations Affected: IC 27-1.

Synopsis: Disclosures related to prescription drugs. Beginning January 1, 2022, requires a state employee health plan, a policy of accident and sickness insurance, and a health maintenance organization contract to provide to a covered individual the maximum allowable cost of a generic drug on the written materials provided at the point of sale. Provides that if an agreement between a health plan and a pharmacy benefit manager that is entered into or renewed after December 31, 2021, provides that less than 85% of the estimated rebates will be deducted from the cost of prescription drugs before a covered individual's cost sharing requirement is determined, the pharmacy benefit manager must provide the policyholder with a notice on an annual basis that includes: (1) an explanation of what a rebate is; (2) an explanation of how rebates accrue to the health plan from the manufacturer; and (3) the aggregate amount of rebates that accrued to the health plan for prescription drugs dispensed under the policyholder's health plan for the previous year.

Effective: July 1, 2021.

**Bohacek, Alting, Walker K,
Freeman, Baldwin, Doriot, Grooms,
Randolph Lonnie M, Charbonneau,
Becker**

January 5, 2021, read first time and referred to Committee on Insurance and Financial Institutions.

February 4, 2021, amended, reported favorably — Do Pass.

February 18, 2021, read second time, amended, ordered engrossed.

SB 131—LS 6528/DI 137



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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 131

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-24.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:

4 **Chapter 24.6. Disclosure of Negotiated Rate**
5 **Sec. 1. This chapter applies to generic drugs covered under a**
6 **health plan and dispensed or administered to a covered individual**
7 **after January 1, 2022.**

8 **Sec. 2. As used in this chapter, "covered individual" means an**
9 **individual who is entitled to coverage under a health plan.**

10 **Sec. 3. As used in this chapter, "generic drug" has the meaning**
11 **set forth in IC 27-1-24.5-4.**

12 **Sec. 4. As used in this chapter, "health plan" means the**
13 **following:**

- 14 (1) A state employee health plan (as defined in IC 5-10-8-7).
15 (2) A policy of accident and sickness insurance (as defined in
16 IC 27-8-5-1).
17 (3) An individual contract (as defined in IC 27-13-1-21) or a

SB 131—LS 6528/DI 137



1 group contract (as defined in IC 27-13-1-16).

2 **Sec. 5.** As used in this chapter, "maximum allowable cost"
3 means the maximum amount that a pharmacy benefit manager will
4 reimburse a pharmacy for the cost of a prescription drug. The
5 term does not include a dispensing fee or a professional fee.

6 **Sec. 6.** A health plan must provide the amount of the maximum
7 allowable cost for a prescription drug on the written materials
8 provided to the covered individual at the point of sale of the
9 prescription drug.

10 SECTION 2. IC 27-1-24.7 IS ADDED TO THE INDIANA CODE
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2021]:

13 **Chapter 24.7. Disclosure of Rebates**

14 **Sec. 1.** This chapter applies to an agreement between a
15 pharmacy benefit manager and a health plan regarding
16 prescription drugs that is entered into, renewed, or renegotiated
17 after December 31, 2021. This chapter does not apply to a health
18 plan, with point of sale rebates, if at least eighty-five percent (85%)
19 of the estimated rebates are deducted from the cost of prescription
20 drugs dispensed at a pharmacy or via mail order before a covered
21 individual's cost sharing requirement is determined.

22 **Sec. 2.** As used in this chapter, "covered individual" means an
23 individual who is entitled to coverage under a health plan.

24 **Sec. 3.** As used in this chapter, "health plan" means the
25 following:

- 26 (1) A state employee health plan (as defined in IC 5-10-8-7).
27 (2) A policy of accident and sickness insurance (as defined in
28 IC 27-8-5-1).
29 (3) An individual contract (as defined in IC 27-13-1-21) and a
30 group contract (as defined in IC 27-13-1-16).
31 (4) Any other plan or program that provides payment,
32 reimbursement, or indemnification to a covered individual for
33 the cost of prescription drugs.

34 **Sec. 4.** As used in this chapter, "policyholder" means an
35 individual in whose name a health plan is held.

36 **Sec. 5.** As used in this chapter, "prescription drug" means a
37 controlled substance or a legend drug (as defined in
38 IC 16-18-2-199).

39 **Sec. 6. (a)** As used in this chapter, "rebate" means a discount or
40 other price concession that is:

- 41 (1) based on the use of a prescription drug; and
42 (2) paid by a manufacturer or a third party to a pharmacy



1 benefit manager (as defined in IC 27-1-24.5-12), pharmacy
2 services administrative organization (as defined in
3 IC 27-1-24.5-15), or pharmacy (as defined in IC 27-1-24.5-11)
4 after a claim has been processed and paid at a pharmacy.

5 (b) The term includes an incentive and a disbursement.

6 Sec. 7. An agreement to which this chapter applies must contain
7 a contractual provision that requires the pharmacy benefit
8 manager to provide on an annual basis, not later than sixty (60)
9 days after the end of each policy year, a notice to a policyholder
10 that states the following:

11 (1) An explanation of what a rebate is.

12 (2) An explanation of how rebates accrue to a health plan
13 from a manufacturer.

14 (3) The aggregate amount of rebates for all prescription drugs
15 dispensed or administered to covered individuals on the
16 policyholder's health plan that accrued to the health plan
17 during the previous policy year. This information may not
18 include any information about an individual prescription
19 drug, including the name, manufacturer, quantity, or dosage
20 of a prescription drug.

21 The notice required by this section may be provided by first class
22 mail or electronic mail.



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 131, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, delete "Wholesale Acquisition Cost" and insert "**Negotiated Rate**".

Page 1, between lines 16 and 17, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "negotiated rate" means the amount a health plan has contractually agreed to pay an in network provider, including an in network pharmacy or other prescription drug dispenser, for covered items or services, whether directly or indirectly, including through a third party administrator or pharmacy benefit manager."

Page 1, line 17, delete "Sec. 4." and insert "**Sec. 5.**".

Page 2, delete lines 3 through 10, begin a new paragraph and insert:

"Sec. 6. A health plan must provide the amount of the negotiated rate for a prescription drug on the written materials provided to the covered individual at the point of sale of the prescription drug."

Page 2, delete lines 15 through 17, begin a new paragraph and insert:

"Sec. 1. This chapter applies to an agreement between a pharmacy benefit manager and a health plan regarding prescription drugs that:

- (1) is entered into, renewed, or renegotiated after December 31, 2021; and**
- (2) provides that fifteen percent (15%) or more of the rebates for prescription drugs will accrue to the health plan instead of to covered individuals at the point of sale."**

Page 2, between lines 26 and 27, begin a new line block indented and insert:

"(4) Any other plan or program that provides payment, reimbursement, or indemnification to a covered individual for the cost of prescription drugs.

Sec. 4. As used in this chapter, "policyholder" means an individual in whose name a health plan is held."

Page 2, line 27, delete "Sec. 4." and insert "**Sec. 5.**".

Page 2, line 30, delete "Sec. 5." and insert "**Sec. 6.**".

Page 2, line 31, delete "an" and insert "**a health plan**".



Page 2, line 32, delete "insurer".

Page 2, delete lines 34 through 42, begin a new paragraph and insert:

"Sec. 7. An agreement to which this chapter applies must contain a contractual provision that requires the pharmacy benefit manager to provide on an annual basis, not later than sixty (60) days after the end of each policy year, a notice to a policyholder that states the following:

(1) An explanation of what a rebate is.

(2) An explanation of how rebates accrue to a health plan from a manufacturer.

(3) The aggregate amount of rebates for all prescription drugs dispensed or administered to covered individuals on the policyholder's health plan that accrued to the health plan during the previous policy year. This information may not include any information about an individual prescription drug, including the name, manufacturer, quantity, or dosage of a prescription drug.

The notice required by this section may be provided by first class mail or electronic mail."

Delete page 3.

and when so amended that said bill do pass.

(Reference is to SB 131 as introduced.)

ZAY, Chairperson

Committee Vote: Yeas 5, Nays 3.

SENATE MOTION

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

Page 1, line 5, delete "prescription" and insert "**generic**".

Page 1, between lines 9 and 10, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "generic drug" has the meaning set forth in IC 27-1-24.5-4."

Page 1, line 10, delete "Sec. 3." and insert "**Sec. 4.**".

Page 1, delete line 17, begin a new paragraph and insert:

"Sec. 5. As used in this chapter, "maximum allowable cost" means the maximum amount that a pharmacy benefit manager will

SB 131—LS 6528/DI 137



reimburse a pharmacy for the cost of a prescription drug. The term does not include a dispensing fee or a professional fee."

Page 2, delete lines 1 through 8.

Page 2, line 9, delete "negotiated" and insert "**maximum allowable cost**".

Page 2, line 10, delete "rate".

Page 2, delete lines 16 through 23, begin a new paragraph and insert:

"Sec. 1. This chapter applies to an agreement between a pharmacy benefit manager and a health plan regarding prescription drugs that is entered into, renewed, or renegotiated after December 31, 2021. This chapter does not apply to a health plan, with point of sale rebates, if at least eighty-five percent (85%) of the estimated rebates are deducted from the cost of prescription drugs dispensed at a pharmacy or via mail order before a covered individual's cost sharing requirement is determined."

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"Sec. 6. (a) As used in this chapter, "rebate" means a discount or other price concession that is:

(1) based on the use of a prescription drug; and

(2) paid by a manufacturer or a third party to a pharmacy benefit manager (as defined in IC 27-1-24.5-12), pharmacy services administrative organization (as defined in IC 27-1-24.5-15), or pharmacy (as defined in IC 27-1-24.5-11) after a claim has been processed and paid at a pharmacy.

(b) The term includes an incentive and a disbursement."

Page 3, delete lines 1 through 2.

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

BOHACEK

