

2023 Regular Session

SENATE BILL NO. 171

BY SENATOR FRED MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACEUTICALS. Creates the pharmacy benefit managers quality incentive program.
(gov sig)

1 AN ACT

2 To enact R.S. 22:1657.2, relative to pharmacy benefit manager quality incentive programs;
3 to provide for a quality incentive program to be established by licensed pharmacy
4 benefit managers; to provide for legislative findings; to provide for utilization of the
5 expertise of the colleges of pharmacy; to provide for minimum requirements of a
6 program; to provide for reporting to the commissioner of insurance; to provide for
7 voluntary participation by pharmacies; to provide for program parameters; to provide
8 for definitions; to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:1657.2 is hereby enacted to read as follows:

11 **§1657.2. Pharmacy benefit manager quality incentive program**

12 **A. The legislature finds and declares all of the following:**

13 **(1) Louisiana residents continue to face health challenges according to**
14 **the 2022 Louisiana Department of Health's Health Report Card which shows**
15 **that Louisiana ranks 42nd in the country for cardiovascular disease, 47th in**
16 **percentage of adults with obesity, 46th in percentage of adults with diabetes,**
17 **49th in rate of low birthweight babies, 48th for sexually transmitted infections,**

1 43rd for substance use disorder, and nearly ten percent of Louisiana's adult
2 population has asthma which results in costly emergency department visits.
3 These chronic diseases and conditions put a strain on the overall wellness of
4 Louisiana residents.

5 (2) The intent of the legislature is to improve the health outcomes of
6 Louisiana residents and one way to address these challenges is a quality
7 incentive program established by licensed pharmacy benefit managers with a
8 focus on increasing patient awareness, expanding pharmacy education,
9 medication adherence, and cost avoidance.

10 (3) In conjunction with health insurance plans, pharmacy benefit
11 managers administer pharmacy benefit plans for Louisiana residents through
12 a contracted network of pharmacies throughout the state of Louisiana.
13 Pharmacy benefit managers support access to quality prescription drug
14 coverage, which enables better health outcomes, secures savings, and promotes
15 competition.

16 (4) Local pharmacists perform direct patient care activities such as
17 counseling, medication management, condition monitoring, and preventative
18 care screenings.

19 (5) There is an opportunity to improve the health outcomes of Louisiana
20 residents served by pharmacy benefit managers and local pharmacies through
21 strengthening the existing relationship between pharmacy benefit managers and
22 local pharmacies with a focus on the best health outcomes for the patient. This
23 can be achieved by creating an affordable future for prescription drugs by
24 promoting pharmacy networks, full availability and use of electronic pharmacy
25 benefit tools and offerings, patient-focused pharmacy care, and advance use of
26 real-world evidence to protect patient safety.

27 (6) To meet these goals and achieve the desired results, the legislature
28 must implement a Louisiana-specific quality incentive program that prioritizes
29 patient health and rewards pharmacists who participate.

1 **B.(1) Each pharmacy benefit manager licensed by the commissioner shall**
2 **develop a program in consultation with the plan sponsor to provide incentive**
3 **payments to eligible independent network pharmacies for meeting benchmarks**
4 **or complying with strategies aimed at improving the health of Louisiana**
5 **residents covered by the pharmacy benefit manager. The quality incentive**
6 **program should focus on the health concerns most affecting Louisiana residents**
7 **and include but not be limited to encouraging the use of new technology and**
8 **obtaining education on best practices.**

9 **(2) A pharmacy benefit manager may consult with the University of**
10 **Louisiana at Monroe College of Pharmacy and the Xavier College of Pharmacy**
11 **to design a quality incentive program, educate pharmacy students and**
12 **pharmacists about the value of electronic pharmacy benefit tools, and provide**
13 **for other educational components of the role of the pharmacist in patient health**
14 **care.**

15 **(3) Incentive programs may be designed to reflect the unique needs of the**
16 **state as designated by each of the nine Louisiana Department of Health regions.**

17 **(4) Each pharmacy benefit manager shall create a toolkit for**
18 **participating independent network pharmacies that includes the option to**
19 **display signage that the pharmacy is a quality incentive program participant.**

20 **(5) A pharmacy benefit manager, in consultation with the plan sponsor,**
21 **may implement educational and training components into the quality incentive**
22 **program to educate pharmacists on best practices to reduce or eliminate**
23 **adverse drug events including but not limited to dispensing errors and drug**
24 **interactions. In determining success of any educational or training component**
25 **included in the quality incentive program, the pharmacy benefit manager may**
26 **request necessary reporting from the pharmacist to verify eligibility to receive**
27 **the designated quality incentive payment available pursuant to this Paragraph.**

28 **C.(1) On or before October 1, 2023, and October 1 of each year**
29 **thereafter, each pharmacy benefit manager shall report to the commissioner the**

1 details of its program including but not limited to the quality incentive criteria,
2 how those criteria are anticipated to improve the quality of care for the
3 individuals covered by the pharmacy benefit manager, how costs will be
4 reduced, the eligibility criteria for participating independent network
5 pharmacies, what efforts will be made to invite independent network
6 pharmacies to participate, the number of pharmacies enrolled or planning to
7 enroll in its quality incentive program, and the aggregate amount of incentive
8 payments expected to be made to the pharmacies participating in the quality
9 incentive program.

10 (2) Each pharmacy benefit manager shall implement the quality
11 incentive program as reported to the commissioner pursuant to Paragraph (1)
12 of this Subsection on January 1 of the following year.

13 D. On or before April 1, 2025, and on or before April 1 of each year
14 thereafter, each pharmacy benefit manager shall report to the commissioner the
15 results of its quality incentive criteria from the previous calendar year. The
16 report shall contain at a minimum an aggregate-level description of the impact
17 of the program on the health of Louisiana residents, the actual cost savings, the
18 number of pharmacies enrolled or planning to enroll in its quality incentive
19 program, and the amount of incentive payments actually made to pharmacies
20 participating in the quality incentive program. The pharmacy benefit manager
21 shall not include any personally identifiable information or any details
22 concerning the health or treatment of a particular individual.

23 E.(1) The pharmacy benefit manager quality incentive program shall be
24 strictly voluntary and no independent network pharmacy shall be penalized for
25 declining to participate. However, a participating pharmacy may be eligible to
26 display a sign in the pharmacy to designate it as a quality incentive site.

27 (2) Implementation of the quality incentive program shall be considered
28 a proactive plan design component aimed at improving health outcomes with
29 the ultimate goal of reducing overall costs by creating a healthier population.

1 In conducting plan design, the pharmacy benefit manager shall advise the plan
2 sponsor on recommended incentive program components that have the greatest
3 opportunity to achieve savings and slow the customary rate of premium growth
4 over a reasonable amount of time in which improved health outcomes could
5 realistically be achieved. Any financial analysis conducted by a pharmacy
6 benefit manager pursuant to this Paragraph in order to recommend specific
7 quality incentive payments to participating pharmacists shall be in addition to
8 regular review and analysis of appropriate existing relationships with
9 independent network pharmacies.

10 (3) Nothing provided for in this Section shall be construed to expand the
11 scope of practice of a participating pharmacist.

12 F. For the purposes of this Section, "independent network pharmacy"
13 means a pharmacy operating within the state which meets all of the following
14 criteria:

15 (1) Is a member of a pharmacy benefit manager's network.

16 (2) Is considered to be in good standing by the pharmacy benefit
17 manager.

18 (3) Is under common ownership with not more than two other
19 pharmacies.

20 G.(1) In accordance with the provisions of R.S. 22:1016, this Section shall
21 not apply to a pharmacy benefit manager that is contracted with the Louisiana
22 Department of Health to provide pharmacy benefit manager services for the
23 Louisiana Medicaid Program or a pharmacy benefit manager that is a
24 subcontractor of a Medicaid managed care organization that is contracted with
25 the Louisiana Department of Health to provide managed care for the Louisiana
26 Medicaid Program.

27 (2) On or before October 1, 2023, and no later than October 1 of each
28 year thereafter, a pharmacy benefit manager claiming an exemption pursuant
29 to this Subsection shall submit written notice to the commissioner stating that

1 it does not administer pharmacy benefit manager services for Louisiana
 2 residents other than individuals enrolled in the Louisiana Medicaid Program.

3 (3) If a pharmacy benefit manager claims an exemption pursuant to this
 4 Subsection and subsequently begins providing pharmacy benefit manager
 5 services to Louisiana residents other than individuals enrolled in the Louisiana
 6 Medicaid Program, it shall immediately begin complying with provisions of this
 7 Section.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Brandi Cannon.

DIGEST

SB 171 Reengrossed

2023 Regular Session

Fred Mills

Present law provides for the licensing of pharmacy benefit managers (PBM) by the commissioner of insurance. Proposed law retains present law and requires each PBM licensed by the commissioner to develop a program in consultation with a plan sponsor to provide incentive payments to eligible independent network pharmacies for meeting benchmarks or complying with strategies aimed at improving the health of Louisiana residents covered by the pharmacy benefit manager.

Proposed law provides that the quality incentive program should focus on the health concerns most affecting Louisiana residents, may be designed in consultation with the Louisiana colleges of pharmacy, and may reflect the unique needs of the state as designated by each of the nine La. Dept. of Health regions.

Proposed law provides, that on or before October first of each year, a PBM shall report to the commissioner the details of its program and provides for the minimum content of the report. Proposed law further provides that the program shall be implemented on the following January first.

Proposed law provides, that on or before April first of the following year, a PBM shall report to the commissioner the results of its quality incentive criteria from the previous calendar year. Proposed law further provides for the minimum content of the report.

Proposed law provides that the PBM quality incentive program shall be strictly voluntary and no independent network pharmacy shall be penalized for declining to participate.

Proposed law provides for additional parameters of the PBM quality incentive program, including the use of education and training programs.

Present law exempts Medicaid managed care organizations from certain provisions of Title 22. Proposed law retains present law and provides that Medicaid managed care organization PBMs are exempt from proposed law. Proposed law requires exempt PBMs to submit a notice of exemption to the commissioner of insurance and provides that the PBM shall no longer be exempt if they render services to Louisiana residents who are not enrolled in the Medicaid program.

Proposed law shall not be construed to expand the scope of practice of a participating pharmacist.

Proposed law defines "independent network pharmacy" as a pharmacy operating within the state which is a member of a pharmacy benefit manager's network, is considered to be in good standing by the pharmacy benefit manager, and is under common ownership with not more than two other pharmacies.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1657.2)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Clarify that the PBM will develop the quality incentive program with the plan sponsor.
2. Add an educational and training component option to the quality incentive program.
3. Require financial options to achieve desired outcomes be presented to the plan sponsor and clarify that the PBM shall continue regular review of existing relationships with independent network pharmacies.
4. Clarify that Medicaid managed care organization PBMs are exempt from proposed law unless they provide services to Louisiana residents who are not enrolled in the Medicaid program.
5. Make technical changes.