State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 289

01/22/2019 Authored by Mann, Halverson, Howard, Cantrell, Freiberg and others
The bill was read for the first time and referred to the Committee on Commerce

A bill for an act

relating to health care; requiring the reporting of the cost of prescription drugs that are used to treat diabetes; proposing coding for new law in Minnesota Statutes, chapter 62J.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[62J.84] DIABETES DRUG COST TRANSPARENCY.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Manufacturer" means any manufacturer that is required to be licensed under section 151.252.

(c) "Pharmacy" has the meaning provided in section 151.01, subdivision 2.

(d) "Pharmacy benefit manager" has the meaning provided in section 151.71, subdivision 1.

(e) "Wholesale acquisition cost" means the manufacturer's list price for a prescription drug to wholesalers or direct purchasers in the United States, not including any discounts, rebates, or reductions in price for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug pricing data.

Subd. 2. **Commissioner's duties.** (a) By February 1 of each year beginning February 1, 2020, the commissioner shall compile a list of prescription drugs that the commissioner determines to be essential for treating diabetes in Minnesota, including all forms of insulin and biguanides marketed for sale in Minnesota and the wholesale acquisition cost of each drug on the list.

(b) By March 1 of each year beginning March 1, 2020, the commissioner shall compile a list using the list described in paragraph (a) of drugs that have been subject to an increase in the wholesale acquisition cost of a percentage equal to or greater than:

(1) the percentage increase in the Consumer Price Index Medical Care Component during the immediately preceding calendar year; or

(2) twice the percentage increase in the Consumer Price Index Medical Care Component during the immediately preceding two calendar years.

Subd. 3. **Manufacturer's duties.** (a) By April 1 of each year beginning April 1, 2020, the manufacturer of each prescription drug included in the most current list compiled by the commissioner under subdivision 2, paragraph (a), shall prepare and submit to the commissioner in a format prescribed by the commissioner, a report that includes the following for each drug listed:

(1) the costs of producing the drug, including the total administrative expenditures relating to the drug, including marketing and advertising costs;

(2) the total amount of financial assistance that the manufacturer has provided through any patient prescription assistance program;

(3) the cost associated with coupons provided directly to consumers and for programs to assist consumers in paying co-payments, and the cost to the manufacturer attributable to the redemption of those coupons and the use of those programs;

(4) the aggregate amount of all rebates that the manufacturer has provided to pharmacy benefit managers for sales of the drug within Minnesota; and

(5) any additional information deemed necessary by the commissioner for the purpose of analyzing the cost of drugs that are included in the list described in subdivision 2, paragraph (a).

(b) By April 1 of each year beginning April 1, 2020, for each drug that is included in the list compiled by the commissioner under subdivision 2, paragraph (b), the manufacturer shall submit to the commissioner a report describing the reasons for the increase in the wholesale acquisition cost of the drug listed. The report must include:

(1) a list of each factor that has contributed to the increase;

(2) the percentage of the total increase that is attributable to each factor;

(3) an explanation of the role of each factor in the increase; and

(4) any additional information deemed necessary by the commissioner.

Subd. 4. **Pharmacy benefits manager duties.** (a) By May 1 of each year beginning May 1, 2020, each pharmacy benefits manager shall submit to the commissioner a report that includes:

(1) the total amount of rebates that the pharmacy benefits manager negotiated with manufacturers during the preceding calendar year for prescription drugs included in the list compiled by the commissioner under subdivision 2, paragraph (a);

(2) the total amount of all rebates under clause (1) that were retained by the pharmacy benefits manager; and

(3) the total amount of all rebates under clause (1) that were negotiated for purchases of drugs for use by:

(i) recipients of Medicare;

(ii) recipients of medical assistance;

(iii) persons covered by third-party payers that are governmental entities that are not included in item (i) or (ii);

(iv) persons covered by third parties that are not governmental entities; and

(v) persons covered by a health plan described under paragraph (b) if the health plan requires the pharmacy benefits manager to comply.

(b) Paragraph (a) does not apply to the coverage of prescription drugs provided under a health plan subject to the Employee Retirement Income Security Act of 1974 or any information related to that coverage unless the health plan requires the pharmacy benefits manager that manages the prescription drug coverage for the health plan to comply with the requirements of paragraph (a).

Subd. 5. **Report.** (a) By June 1 of each year beginning June 1, 2020, the commissioner shall analyze the information submitted under subdivisions 2, 3, and 4 and submit a report to the legislature on the price of prescription drugs that appear on the most current lists pursuant to subdivision 2, the reasons for any increases in those prices, and the effect of those prices on overall spending on prescription drugs in Minnesota. The commissioner may include recommendations on how to lower the cost of drugs used for the treatment of diabetes while maintaining access to the drugs.

(b) The commissioner shall make the report described in paragraph (a) available to the public.