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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4753

04/04/2022 Authored by Bierman
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health care; requiring that an enrollee receive any rebates and discounts
1.3 accrued directly or indirectly to health carriers; proposing coding for new law in
1.4 Minnesota Statutes, chapter 62A.

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

1.6 Section 1. [62A.3096] COST-SHARING REDUCTIONS AT POINT OF SALE.

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

1.9 (b) "Defined cost-sharing" means a deductible or coinsurance amount imposed on an
1.10 enrollee for a covered prescription drug under the terms of the enrollee's health plan.

1.11 (c) "Health carrier" has the meaning given in section 62A.011, subdivision 2, and includes
1.12 a pharmacy benefit manager as defined in section 62W.02, subdivision 15, with respect to
1.13 the pharmacy benefit management services provided on behalf of a health carrier.

1.14 (d) "Price protection rebate" means a negotiated price concession that accrues directly
1.15 or indirectly to the health carrier, or other party on behalf of the health carrier, in the event
1.16 the wholesale acquisition cost of a drug increases above a specified threshold.

1.17 (e) "Rebate" means:

1.18 (1) negotiated price concessions, including but not limited to base price concessions,
1.19 whether described as a rebate or otherwise, and reasonable estimates of any price protection
1.20 rebates and performance-based price concessions that may accrue directly or indirectly to
1.21 the health carrier during the coverage year from a manufacturer, dispensing pharmacy, or
1.22 other party in connection with dispensing or administering a prescription drug; and

2.1 (2) reasonable estimates of any negotiated prices, concessions, fees, and other
2.2 administrative costs that are passed through to the health carrier and serve to reduce the
2.3 health carrier's liabilities for a prescription drug.

2.4 Subd. 2. **Decrease in cost-sharing.** (a) An enrollee's defined cost-sharing for each
2.5 prescription drug must be calculated at the point of sale based on a price that is reduced by
2.6 an amount equal to 100 percent of all rebates received or to be received in connection with
2.7 dispensing or administering the prescription drug.

2.8 (b) Nothing in this section precludes a health carrier from decreasing an enrollee's defined
2.9 cost-sharing by an amount greater than that required under this subdivision.

2.10 Subd. 3. **Confidentiality.** When complying with this section, a health carrier or the
2.11 health carrier's agents must not publish or otherwise reveal information regarding the actual
2.12 amount of rebates a health carrier receives on a product, therapeutic class of products,
2.13 manufacturer-specific basis, or pharmacy-specific basis. Rebate information is protected
2.14 as a trade secret, is not a public record under chapter 13, and must not be disclosed directly;
2.15 indirectly; in a manner that may identify an individual product, therapeutic class of products,
2.16 or manufacturer; or in a manner that has the potential to compromise the financial,
2.17 competitive, or proprietary nature of the information. A health carrier must impose the
2.18 confidentiality protections of this section on any vendor or downstream third party that
2.19 performs health care or administrative services on behalf of the health carrier that may
2.20 receive or have access to rebate information.

2.21 Subd. 4. **Enforcement.** A health carrier or pharmacy benefit manager that fails to comply
2.22 with this section may be subject to sanctions under the appropriate chapters regulating the
2.23 health carrier or pharmacy benefit manager, including civil penalties and suspension or
2.24 revocation of the health carrier's or pharmacy benefit manager's license.