
OLR Bill Analysis

sHB 7174

AN ACT CONCERNING PRESCRIPTION DRUGS.

SUMMARY

This bill requires the comptroller, within available appropriations, to establish the Connecticut Prescription Drug Program (CPDP) to, among other things, make outpatient prescription drugs available to program participants at the lowest possible cost.

It also requires pharmaceutical manufacturers engaging in agreements to delay generic drug manufacturing (e.g., “pay-for-delay” agreements) to report such agreements to the Insurance Commissioner, who must notify other health carriers about the drug covered by the agreement. Under the bill, health carriers covering drugs subject to one of these notices must reduce the cost of the drug to covered individuals by 50%.

The bill also:

1. allows certain self-insured private employers to access the prescription drug benefit portion of the state employee and retiree health plan;
2. prohibits contracts between pharmacy benefit managers (PBMs) and pharmacies from allowing the PBM to recoup any portion of a settled claim, except under an audit; and
3. establishes a drug reimportation task force.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2019, except for the task force, which is effective upon passage.

§§ 1 & 2 — CONNECTICUT PRESCRIPTION DRUG PROGRAM (CPDP)

The bill requires the comptroller to establish the CPDP, within available appropriations, to:

1. purchase outpatient prescription drugs, replenish supplies of such drugs, or reimburse participating pharmacies and pharmacists for outpatient prescription drugs in order to secure the lowest possible prices and greatest possible rebates for program participants;
2. make outpatient prescription drugs available to participants at the lowest possible cost;
3. maintain a list of the most cost-effective and therapeutically effective outpatient prescription drugs available to participants;
4. purchase and provide discounted outpatient prescription drugs to participants; and
5. coordinate a comprehensive pharmacy benefit for participants.

To do this, the bill authorizes the comptroller to, either by himself or in cooperation with other states or regional consortia, purchase outpatient prescription drugs on participating individuals' behalf.

Comptroller Requirements

As part of the program, the comptroller must:

1. establish eligibility criteria for Connecticut residents and participating pharmacies and pharmacists;
2. prescribe an application for individuals, pharmacists, and pharmacies to participate in the program;
3. issue to participating individuals a prescription drug identification card that contains claims processing information;
4. establish a list of preferred outpatient prescription drugs for the program;

5. negotiate with pharmaceutical manufacturers and others to secure prescription drug discounts and rebates;
6. establish program prices;
7. adjudicate pharmacy claims and reimburse participating pharmacies and pharmacists at program prices;
8. develop a system to allocate and distribute program operations costs, as well as any rebates, to individual participants.

CPDP Account

Under the bill, the comptroller must also charge administrative fees to individual program participants, as well as participating pharmacists and pharmacies, to cover the program's operational costs. Money from the fees must be deposited in the Connecticut prescription drug program account, which the bill creates as a separate nonlapsing account in the General Fund. Money in the account must be used to facilitate the CPDP.

Program Implementation and Administration

The comptroller may contract with a PBM to run the program, as long as he requires the PBM to charge its lowest available rate for such services. The bill also authorizes him to adopt implementing regulations.

§ 3 — AGREEMENTS TO DELAY GENERIC DRUG MANUFACTURING

Under the bill, each brand name drug manufacturer that conducts business in Connecticut and enters into an agreement with another manufacturer to delay the introduction of a generic replacement drug must, within 30 days, notify the insurance commissioner of the brand name drug's name in a form and manner he prescribes.

Within 30 days of receiving such a notice, the commissioner must:

1. notify and disclose to all health carriers and PBMs doing business in Connecticut that the brand name prescription drug

is subject to such an agreement, and

2. instruct health carriers covering the brand name drug, and PBMs administering plans that include the drug, to immediately reduce the drug's cost by 50% of the manufacturer's wholesale list price.

A "manufacturer's wholesale list price" is a manufacturer's published wholesale price or, if there is no such published or list price, the wholesaler's invoice price, excluding discounts, to the retailer.

These provisions apply to the maximum extent permitted by law. The bill allows the commissioner to adopt implementing regulations.

§ 4 — SELF-INSURED PRIVATE EMPLOYER ACCESS TO THE PRESCRIPTION DRUG BENEFIT PORTION OF THE STATE EMPLOYEE AND RETIREE HEALTH PLAN

By law, certain nonstate public employers (e.g., municipalities, quasi-public agencies, and boards of education) can purchase prescription drugs through the state employee and retiree health plan administered by the comptroller. The bill allows a self-insured private employer, either individually or together with other self-insured private employers, to also purchase prescription drug coverage through the plan. It also incorporates self-insured private employers into existing law's plan administration provisions, thus:

1. requiring the commissioner to establish eligibility, enrollment, payment, and withdrawal procedures for self-insured private employers;
2. allowing the comptroller to offer self-insured private employers the option to purchase stop loss coverage at a negotiated rate; and
3. requiring self-insured private employers to pay the full cost of their own claims and prescription drugs.

As under existing law for nonstate public employers, the comptroller must either establish or incorporate self-insured private

employers into a separate plan or receive approval from the Health Care Cost Containment Committee.

§ 5 — PBM PAYMENTS

Beginning January 1, 2020, the bill prohibits a contract between a health carrier or PBM and a pharmacy or pharmacist from allowing the health carrier or PBM to recoup, directly or indirectly, any portion of a claim that was paid to the pharmacy or pharmacist. The bill excludes any payments made due to a pharmacy audit or authorized by another applicable law.

§ 6 — DRUG REIMPORTATION TASK FORCE

The bill establishes a task force to study drug reimportation and requires it to report to the Insurance and Real Estate Committee with its findings by January 1, 2020, at which point it terminates. The study must include an examination of the feasibility of implementing a importation program to lower prescription drug and health insurance costs.

Under the bill, the task force consists of:

1. two members appointed by the House Speaker;
2. two appointed by the Senate President Pro Tempore;
3. one each appointed by the House and Senate majority leaders;
4. one each appointed by the House and Senate minority leaders;
5. the attorney general, comptroller, and the public health, social services, and insurance commissioners, or their designees;
6. the Office of Health Strategy executive director and the healthcare advocate, or their designees; and
7. two appointed by the governor.

The bill does not specify qualifications for appointees. It allows the legislative appointees to be legislators. Appointments must be made

within 30 days of the bill's passage, and vacancies are filled by the appointing authority.

The House Speaker and the Senate President Pro Tempore must select the chairpersons from among the task force's members. The chairpersons must schedule the first meeting within 60 days of the bill's passage.

Under the bill, the Insurance and Real Estate Committee's staff serves as the task force's administrative staff.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 12 Nay 8 (03/14/2019)