

HOUSE BILL REPORT

SHB 2464

As Passed Legislature

Title: An act relating to protecting patients from excess charges for prescription medications.

Brief Description: Protecting patients from excess prescription medication charges.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Gildon and Young).

Brief History:

Committee Activity:

Health Care & Wellness: 1/21/20, 1/31/20 [DPS].

Floor Activity:

Passed House: 2/17/20, 98-0.

Senate Amended.

Passed Senate: 3/6/20, 48-0.

House Concurred.

Passed House: 3/9/20, 96-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Limits the maximum amount a purchaser of prescription medication may be required to pay at the point of sale.
- Prohibits a carrier or pharmacy benefit manager from requiring a pharmacist to dispense a brand name drug when a less expensive equivalent generic drug is available.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Chambers, Chopp, Davis, DeBolt, Harris, Maycumber, Riccelli, Robinson, Stonier, Thai and Tharinger.

Staff: Kim Weidenaar (786-7120).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

A pharmacy benefit manager (PBM) acts as an intermediary between the entities with which it contracts and pharmaceutical manufacturers to administer the drug benefit portion of a health plan. A PBM processes and pays prescription drug claims, develops and maintains the formulary, contracts with pharmacies, and negotiates discounts and rebates with manufacturers. To conduct business in Washington, a PBM must register with the Office of the Insurance Commissioner (OIC). The OIC has enforcement authority over the PBMs. A person, corporation, third-party administrator of prescription drug benefits, PBM, or business entity that violates laws relating to the PBMs is subject to a civil penalty of \$1,000 per violation or \$5,000 per violation if the violation was knowing and willful.

A health plan offering coverage to individuals or small groups is required, under the federal Patient Protection and Affordable Care Act (ACA), to cover 10 categories of essential health benefits, one of which is prescription drugs. To comply with the ACA's prescription drug coverage requirement, a health carrier must cover prescription drugs in a manner substantially equal to a benchmark plan selected by the state. The health carrier's formulary is part of the prescription drug category and must be substantially equal to the formulary in the benchmark plan.

Summary of Substitute Bill:

Beginning January 1, 2021, the maximum amount a pharmacy benefit manager or health carrier may require a person to pay at the point of sale for a covered prescription medication is the lesser of:

- the applicable cost sharing for the medication; or
- the amount the person would pay for the medication if he or she purchased it without using a health plan.

A health carrier or pharmacy benefit manager may not require a pharmacist to dispense a brand name prescription drug when a less expensive therapeutically equivalent generic drug is available.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a simple bill that will have a big impact on a lot of people. Many people are just trying to make ends meet and the cost of prescriptions is a big part. While this will not solve everything, it could have a big impact. The difference between the cash price and the copay price can be small, but it also can be very significant. The practice of clawbacks is unfair to customers and just gives extra money to carriers or pharmacy benefit managers (PBMs). There are many ways the cost of prescription drugs is being elevated and it is often

due to PBMs' strong contractual power. About 25 percent of patients pay more than the actual cost of the drug. While this bill is a good idea, there is no enforcement to ensure that it is happening. Other bills that provide for licensure of PBMs and enforcement authority are necessary and must be a coupled set.

(Opposed) None.

(Other) The patient should be paying the lowest price for prescription drugs, whether that means using plan benefits or not. The PBM industry supports this legislation so that patients pay the lower price. However, the provision about any other source of benefits or discounts creates an issue for insurers. An insurer or PBM does not know about all coupons and discounts and may not know when this is happening. When a pharmacist submits a claim using a coupon with Good RX, for example, that goes to Good RX, not the plan. The plans are also in support of the bill, but request that it be amended to require pharmacists to tell patients about the availability of lower costs.

Persons Testifying: (In support) Representative Gildon, prime sponsor; Rick Hughes, Ray's Pharmacy; Andrew Heinz, Kirk's Pharmacy; and Jeff Rochon, Washington State Pharmacy Association.

(Other) LuGina Mendez-Harper, Prime Therapeutics; and Christine Brewer, Association of Washington Healthcare Plans.

Persons Signed In To Testify But Not Testifying: None.