Rep. Mary E. Flowers

Filed: 3/21/2019

AMENDMENT TO HOUSE BILL 53

AMENDMENT NO. _____. Amend House Bill 53 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Food, Drug and Cosmetic Act is amended by adding Section 16.2 as follows:

(410 ILCS 620/16.2 new)

Sec. 16.2. Prescription drug price increases.

(a) This Section shall apply to any manufacturer of a prescription drug that is purchased or reimbursed by any of the following:

(1) A State purchaser, including, but not limited to, State retirement systems, the Department of Corrections, the Department of Healthcare and Family Services, the Department of Public Health, or any entity acting on behalf of a State purchaser.

(2) A health insurer.

(3) A health care service plan provider.

(4) A pharmacy benefit manager.

(b) A manufacturer of a prescription drug with a wholesale acquisition cost of more than $40 for a course of therapy shall notify each party described in subsection (a) if there is an increase in the wholesale acquisition cost of the prescription drug of more than 10%, including the proposed increase and cumulative increase that has occurred within the previous 2 calendar years prior to the date of the proposed increase.

For purposes of this subsection, "course of therapy" means either of the following:

(1) The recommended daily dosage units of a prescription drug pursuant to its prescribing label as approved by the federal Food and Drug Administration for a normal course of treatment that is 30 days or more.

(2) The recommended daily dosage units of a prescription drug pursuant to its prescribing label as approved by the federal Food and Drug Administration for a normal course of treatment that is less than 30 days.

(c) The notice required under subsection (b) shall be provided in writing at least 60 days prior to the planned date of the increase in the wholesale acquisition cost.

(d) No later than 30 days after providing notification of a price increase under subsection (b), a manufacturer shall report the following information to each party described in subsection (a):

(1) The latest applicable wholesale acquisition cost.

(2) The date of the latest previous increase in wholesale acquisition cost.

(3) The per-unit dollar amount of the scheduled increase in wholesale acquisition cost.

(4) A schedule of wholesale acquisition cost increases for the previous 5 years, where available, or for the years since the drug has been approved by the federal Food and Drug Administration if that length of time is less than 5 years.

(5) The date and price of acquisition, if the drug was not developed by the manufacturer.

(6) A description of each financial and non-financial factor that contributes to the wholesale acquisition cost, including the following:

(A) A percentage of the price attributable to each factor.

(B) An explanation of the role of each factor in the price of the drug.

(e) A manufacturer of a prescription drug shall provide written notice to each party described in subsection (a) if the manufacturer is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. This notice shall be provided no later than 30 days prior to the release of the drug on the commercial market.

(f) No later than 30 days after providing the notification of a new prescription drug under subsection (e), a manufacturer shall report the following information to each party described in subsection (a):

(1) The latest applicable wholesale acquisition cost.

(2) The date of the latest previous increase in wholesale acquisition cost.

(3) The per-unit dollar amount of the scheduled increase in wholesale acquisition cost.

(4) A schedule of wholesale acquisition costs increases for the previous 5 years, where available, or for the years since the drug has been approved by the federal Food and Drug Administration if that length of time is less than 5 years.

(5) The date and price of acquisition, if the drug was not developed by the manufacturer.

(6) A description of each financial and non-financial factor that contributes to the wholesale acquisition cost, including the following:

(A) A percentage of the price attributable to each factor.

(B) An explanation of the role of each factor in the price of the drug.

(g) Failure to provide the information required under subsections (b), (d), (e), or (f) to each party described in subsection (a) shall result in a civil penalty of $10,000 per

day for every day after the notification period that the manufacturer fails to provide the information.

(h) The Department of Public Health shall conduct an annual public hearing on the aggregate trends in prescription drug pricing. The hearing shall provide for public discussion of overall price increases, emerging trends, decreases in drug spending, and the impact of prescription drug spending on health care affordability and premiums.

(i) The Department of Public Health shall publish on its website a report detailing findings from the public hearing held under subsection (h) and a summary of information provided under subsections (b), (d), (e), and (f).

(j) The Department of Public Health may not post on its website any information described in subsections (d) or (f) of this Section that is identified as a trade secret under the Illinois Trade Secrets Act.

(k) The Department of Public Health shall keep confidential all information provided to the Department that would qualify for an exemption under Section 7 of the Freedom of Information Act.

(l) This Section shall not restrict the legal ability of a pharmaceutical manufacturer to change prices as permitted under federal law.".