

1 **SENATE FLOOR VERSION**

2 February 14, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 144

5 By: Hicks

6 **[prescription drugs - reports - requirements - rules**
7 **- codification - effective date]**

8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 6970 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. As used in this section:

14 1. "Manufacturer" means any person or entity that holds the
15 national drug code for a prescription drug and is engaged in the
16 production, preparation, propagation, compounding, conversion, or
17 processing of drug products for treating diabetes in this state;

18 2. "Pharmacy" means a pharmacy as defined pursuant to Section
19 353.1 of Title 59 of the Oklahoma Statutes; and

20 3. "Pharmacy benefits manager" means a pharmacy benefits
21 manager as defined pursuant to Section 6960 of Title 36 of the
22 Oklahoma Statutes.

23 B. On or before February 1 of each calendar year, the Insurance
24 Department shall compile:

1 1. A list of prescription drugs that the Department determines
2 to be essential for treating diabetes in this state and the
3 wholesale acquisition cost of each drug on the list. The list shall
4 include, but not be limited to, all forms of insulin and biguanides
5 marketed for sale in this state; and

6 2. A list of prescription drugs described in paragraph 1 of
7 this subsection that have been subject to an increase in the
8 wholesale acquisition cost of a percentage equal to or greater than:

9 a. the percentage increase in the medical care index of
10 the Consumer Price Index, during the immediately
11 preceding year, or

12 b. twice the percentage increase in the medical care
13 index of the Consumer Price Index, during the
14 immediately preceding two calendar years.

15 C. On or before April 1 of each calendar year, the manufacturer
16 of a prescription drug that appears on the most current list
17 compiled by the Department pursuant to subsection A of this section
18 shall prepare and submit to the Department, in a form to be
19 prescribed by the Department, a report that shall include:

20 1. The cost of the drug to the consumer;

21 2. The total administrative expenditures relating to the drug
22 including marketing and advertising costs;

23 3. The profit that the manufacturer has earned from the drug
24 and the percentage of the total profit of the manufacturer for the

1 period during which the manufacturer has marketed the drug for sale
2 that is attributable to the drug;

3 4. The total amount of financial assistance that the
4 manufacturer has provided through any patient prescription
5 assistance program;

6 5. The cost associated with coupons provided directly to
7 consumers and for programs to assist consumers in paying copayments,
8 and the cost to the manufacturer attributable to the redemption of
9 those coupons and the use of those programs;

10 6. The wholesale acquisition cost of the drug;

11 7. A history of any increases in the wholesale acquisition cost
12 of the drug over the five (5) years immediately preceding the date
13 on which the report is submitted, including the amount of each
14 increase expressed as a percentage of the total wholesale
15 acquisition cost of the drug, the month and year in which each
16 increase became effective, and any explanation for the increase;

17 8. The aggregate amount of all rebates that the manufacturer
18 has provided to pharmacy benefits managers for sales of the drug
19 within this state; and

20 9. Any additional information deemed necessary by the
21 Department for the purpose of analyzing the cost of prescription
22 drugs that appear on the list compiled pursuant to subsection B of
23 this section.

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1 D. On or before April 1 of a year in which a drug is included
2 on the list compiled pursuant to subsection B of this section, the
3 manufacturer of the drug shall submit to the Department a report
4 describing the reasons for the increase in the wholesale acquisition
5 cost of the drug described in that subsection. The report shall
6 include, but not be limited to:

7 1. A list of each factor that has contributed to the increase;

8 2. The percentage of the total increase that is attributable to
9 each factor;

10 3. An explanation of the role of each factor in the increase;

11 and

12 4. Any other information prescribed by rule of the Department.

13 E. Except as provided in this section, a pharmacy benefits
14 manager shall submit to the Department a report that shall include:

15 1. The total amount of all rebates that the pharmacy benefits
16 manager negotiated with the manufacturers during the immediately
17 preceding calendar year for prescription drugs included on the list
18 compiled by the Department pursuant to subsection B of this section;

19 2. The total amount of all rebates described in paragraph 1 of
20 this subsection that were retained by the pharmacy benefits manager;

21 3. The total amount of all rebates described in paragraph 1 of
22 this subsection that the pharmacy benefits manager negotiated for
23 purchases of drugs for use by:

24 a. recipients of Medicare,

- 1 b. recipients of Medicaid,
- 2 c. persons covered by third parties that are governmental
- 3 entities not described in subparagraphs a and b of
- 4 this paragraph,
- 5 d. persons covered by third parties that are not
- 6 governmental entities, and
- 7 e. persons covered by a plan described in paragraph 4 of
- 8 this subsection to the extent required by a contract
- 9 entered into pursuant to paragraph 5 of this
- 10 subsection;

11 4. Except as otherwise provided in subparagraph c of paragraph

12 3 of this subsection, the requirements of this section do not apply

13 to the coverage of prescription drugs under a plan that is subject

14 to the federal Employee Retirement Income Security Act of 1974 as

15 amended or any information relating to that coverage; and

16 5. A plan described in paragraph 4 of this subsection may, by

17 contract, require a pharmacy benefits manager that manages the

18 coverage of prescription drugs under the plan to comply with the

19 requirements of this section.

20 F. The Department shall analyze the information submitted

21 pursuant to subsections C, D, and E of this section and publish a

22 report on the website created under subsection G of this section on

23 the price of the prescription drugs that appear on the most current

24 lists compiled by the Department pursuant to subsection B of this

1 section, the reasons for any increases in those prices, and the
2 effect of those prices on overall spending on prescription drugs in
3 this state. The report may include, but not be limited to,
4 opportunities for persons and entities in this state to lower the
5 cost of drugs for the treatment of diabetes while maintaining access
6 to the drugs.

7 G. 1. The Department shall create and maintain a website, to
8 be updated no less frequently than once each calendar quarter, and
9 shall place or cause to be placed:

- 10 a. the list of prescription drugs compiled by the
11 Department pursuant to subsection B of this section,
- 12 b. the wholesale acquisition cost of each prescription
13 drug reported pursuant to subsection C of this
14 section, and
- 15 c. the reports compiled by the Department pursuant to
16 subsection F of this subsection.

17 2. The Department shall ensure that the information placed on
18 the website is organized so that each individual manufacturer has
19 its own separate entry on the website.

20 3. The Department may establish additional or alternative
21 procedures by which a consumer who is unable to access the Internet
22 or is otherwise unable to receive the information described in this
23 section may access this data. This shall include, but not be
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1 limited to, maintaining copies of the data reported pursuant to this
2 section maintained by the Department.

3 H. The Department shall promulgate rules to effectuate the
4 provisions of this section.

5 SECTION 2. This act shall become effective November 1, 2023.

6 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
7 February 14, 2023 - DO PASS AS AMENDED
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