

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 146

By: Hicks

4  
5  
6 AS INTRODUCED

7 An Act relating to prescription drugs; creating the  
8 Access to Lifesaving Medicines Act; providing short  
9 title; defining terms; prohibiting certain insurers  
10 and pharmacy benefits managers from imposing certain  
11 costs; requiring certain rebates be offered to  
12 certain health benefit plans; establishing terms of  
prescription drug cost sharing; directing  
promulgation of rules; providing for noncodification;  
providing for codification; and providing an  
effective date.

13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law not to be  
16 codified in the Oklahoma Statutes reads as follows:

17 This act shall be known and may be cited as the "Access to  
18 Lifesaving Medicines Act".

19 SECTION 2. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6971 of Title 36, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section:

23 1. "Adjusted out-of-pocket amount" means the co-payment, co-  
24 insurance, or other cost sharing obligation that a health benefit

1 plan requires an insured to pay at the point-of-sale for a covered  
2 prescription medication otherwise payable, less the pro rata portion  
3 of any discounts, rebates, and price concessions in connection with  
4 the prescription drug;

5 2. "Claim" means any bill, claim, or proof of loss made by or  
6 on behalf of an insured or a provider, to a health insurer or its  
7 intermediary, administrator, or representative, with which the  
8 provider has a provider contract for payment for health care  
9 services under any health benefit plan;

10 3. "Excess cost burden" means any co-payments, co-insurance, or  
11 other cost sharing an insured is required to pay at the point-of-  
12 sale to receive a prescription drug or device, that exceeds the  
13 health insurer's or pharmacy benefits manager's net cost after  
14 applying a pro rata portion of any discounts, rebates, or  
15 concessions received from manufacturers, pharmacies, or other third  
16 parties;

17 4. "Health benefit plan" means a health benefit plan as defined  
18 pursuant to Section 6060.4 of Title 36 of the Oklahoma Statutes;

19 5. "Health care provider" or "provider" means a health care  
20 provider as defined pursuant to Section 3090.2 of Title 63 of the  
21 Oklahoma Statutes;

22 6. "Health insurer" means any entity subject to the  
23 jurisdiction of the Insurance Department and the insurance laws and  
24 regulations of this state that contracts or offers to contract to

1 provide, deliver, arrange for, pay for, or reimburse any of the  
2 costs of health care services, including but not limited to a health  
3 maintenance organization, a health benefit plan, or any other entity  
4 providing a plan of health insurance, health benefits, or health  
5 care services;

6 7. "Maximum allowable claim" means the amount the health  
7 insurer or pharmacy benefits manager has agreed to pay a pharmacy;

8 8. "Maximum allowable cost" means the maximum dollar amount  
9 that a health insurer or its intermediary will reimburse a pharmacy  
10 provider for a group of drugs rated as "A", "AB", "NR", or "NA" in  
11 the most recent edition of the Approved Drug Products with  
12 Therapeutic Evaluations, published by the United States Food and  
13 Drug Administration, or similarly rated by a nationally recognized  
14 reference;

15 9. "Pharmacy" means a pharmacy as defined pursuant to Section  
16 353.1 of Title 59 of the Oklahoma Statutes;

17 10. "Pharmacy benefits manager" means a pharmacy benefits  
18 manager as defined pursuant to Section 6960 of Title 36 of the  
19 Oklahoma Statutes;

20 11. "Point-of-sale" means the transaction in which goods or  
21 services, including but not limited to prescription medications,  
22 medical devices, and medical supplies, are sold to the consumer;

23 12. "Rebate" means:  
24  
25

- 1 a. negotiated price concessions, including but not  
2 limited to base rebates and reasonable estimates of  
3 any price protection rebates and performance-based  
4 rebates that may accrue, directly or indirectly, to  
5 the health insurer or pharmacy benefits manager as a  
6 result of point-of-sale prescription medication claims  
7 processing during the coverage year from a  
8 manufacturer, dispensing pharmacy, or other party to  
9 the transaction, or
- 10 b. reasonable estimates of any fees and other  
11 administrative costs that are passed through to the  
12 health insurer as a result of point-of-sale  
13 prescription medication claims processing and serve to  
14 reduce the health insurer's prescription medication  
15 liabilities for the coverage year; and

16 13. "Provider contract" means any contract between a health  
17 care provider and a health insurer, or an insurer's network,  
18 provider panel, intermediary, or representative, relating to the  
19 provision of health care services.

20 B. Any health insurer or pharmacy benefits manager that issues,  
21 renews, or amends a health benefit plan with prescription drug  
22 coverage shall not impose an excess cost burden on an insured.

23 C. When contracting with a health insurer or health benefit  
24 plan to administer pharmacy benefits, a pharmacy benefits manager

1 shall offer the health benefit plan the option of extending point-  
2 of-sale rebates to enrollees of the plan.

3 D. Prescription drug cost sharing for an insured shall be the  
4 lesser of:

5 1. The applicable co-payment for the prescription medication  
6 that would be payable in the absence of this section;

7 2. The maximum allowable cost;

8 3. The maximum allowable claim;

9 4. The adjusted out-of-pocket amount as determined pursuant to  
10 this section;

11 5. The amount an insured would pay for the prescription  
12 medication if the insured purchased it without using his or her  
13 health benefit plan or any other source of prescription medication  
14 benefits or discounts; or

15 6. The amount the pharmacy will be reimbursed for the  
16 prescription medication by the health insurer or pharmacy benefits  
17 manager.

18 E. The Insurance Commissioner shall promulgate rules to  
19 effectuate the provisions of this section.

20 SECTION 3. This act shall become effective November 1, 2023.

21  
22 59-1-1219 RD 1/4/2023 3:38:24 PM  
23  
24  
25