OLR Bill Analysis
HB 6870

AN ACT ADDRESSING PATIENTS' PRESCRIPTION DRUG COSTS.

SUMMARY

This bill establishes a Canadian prescription drug importation program under which the Department of Consumer Protection (DCP) commissioner, on behalf of the state, would seek federal approval to import prescription drugs from Canada that have the highest potential for cost savings in the state (§§ 1-10). ("Prescription drug" is a legend drug approved by the federal Food and Drug Administration (FDA), or any successor agency, and prescribed by a health care provider to an individual in the state.)

The bill also (1) caps the prices pharmaceutical manufacturers and wholesale distributors can sell an identified prescription drug for in the state and (2) imposes a civil penalty for violators, with exceptions. The civil penalties are calculated, imposed, and collected by the Department of Revenue Services (DRS) commissioner. It also creates a process by which an aggrieved person can request a hearing to dispute the penalty. An "identified prescription drug" is a (1) brand-name drug or biological product for which the patent has expired for at least 24 months, or (2) generic drug or interchangeable biological product (§§ 11-14).

Lastly, the bill requires health carriers to credit enrollees for certain prescription drug costs when determining liability for out-of-pocket expenses. It requires proof of payment if, for example, the insured or enrollee purchased prescription drugs from an out-of-network health care provider (§ 15).

EFFECTIVE DATE: July 1, 2025, except (1) January 1, 2026, for the provision on health carriers' out-of-pocket expense calculation and the related proof of payment requirements (§ 15); and (2) October 1, 2027, for most provisions establishing the Canadian prescription drug

importation program (§§ 3-10).

§§ 1-10 — CANADIAN PRESCRIPTION DRUG IMPORTATION PROGRAM

Feasibility Study and Report (§ 2)

The bill requires the DCP commissioner to:

1. hire, within available resources, a consultant to study the feasibility of establishing a Canadian prescription drug importation program to reduce prescription drug costs in the state; and

2. by October 1, 2027, report the findings to the Appropriations, General Law, and Human Services committees and the Office of Policy and Management (OPM).

Food and Drug Administration Approval (§ 3)

Request for FDA Approval. If the DCP commissioner, in consultation with the OPM secretary, determines the program is feasible, the bill authorizes the commissioner to request program approval from the FDA.

At a minimum, the request to the FDA must do the following:

1. describe (a) the state's plans for operating the program and (b) any opportunities to coordinate with other states,

2. demonstrate that any prescription drug imported and distributed in this state under the program would (a) meet all applicable federal and state standards for safety and effectiveness and (b) comply with all federal tracing procedures, and

3. state the estimated program implementation costs.

The bill authorizes the DCP commissioner to spend resources before FDA approval to ensure efficient implementation, but it prohibits the commissioner from actually operating the program without FDA approval.

FDA-Approval Received. If the FDA approves the request, the DCP commissioner must submit a notice disclosing it to the OPM secretary; Social Services and Health Strategy commissioners; and Appropriations, General Law, Human Services, and Public Health committees.

Prescription Drug Importation, Distribution, and Standard (§§ 1, 4 & 5)

Importation and Distribution. If a Canadian prescription drug importation program is established under the bill, participating wholesalers may, subject to the bill's provisions and under the program, import and distribute drugs in this state from a participating Canadian supplier to pharmacies, institutional pharmacies, and qualifying laboratories.

Drug. For purposes of the Canadian prescription drug importation program, "drug" means an article that is:

1. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any of their supplements;

2. intended to diagnose, cure, mitigate, treat, or prevent disease in humans;

3. not food and intended to affect the structure or any function of the human body; and

4. not a device and intended for use as a component of any article specified in those listed above.

Participating Wholesaler. A "participating wholesaler" in the program is designated by DCP to distribute prescription drugs in the manufacturer's original container, obtained from a participating Canadian supplier.

Participating Canadian Supplier. A "participating Canadian supplier" in the program is a Canadian supplier that is exporting prescription drugs, in the manufacturer's original container, to a

participating wholesaler for distribution in the state under the program.

Canadian Supplier. A "Canadian supplier" is a manufacturer or wholesale drug distributor licensed or permitted under applicable Canadian law to manufacture or distribute prescription drugs.

An "institutional pharmacy" is the area within a care-giving, correctional, or juvenile training institution where drugs are stored and dispensed under the direct charge of a pharmacist. This area is commonly known as the pharmacy.

Drug Standards. Under the program, participating wholesalers may import and distribute prescription drugs in this state from a participating Canadian supplier under the program if doing so would not violate federal patent laws and the drug meets the FDA's drug safety, effectiveness, misbranding, and adulteration standards.

A drug cannot be imported under the program if it is:

1. considered a controlled substance under federal law;

2. a biological product (e.g., a virus, therapeutic serum, vaccine, blood, or blood component applied to prevent, treat, or cure a human disease or condition);

3. one that is infused, intravenously injected, or inhaled during surgery; or

4. a parenteral drug that the federal Health and Human Services secretary determines would pose a threat to the public health if imported.

Track-and-Trace-Related Requirements (§§ 1 & 6)

Under the program, the DCP commissioner must require participating Canadian suppliers and participating wholesalers to (1) comply with all applicable track-and-trace requirements and (2) make all track-and-trace records available within 48 hours after the commissioner requests them.

"Track-and-trace" is the product tracing process in the federal Drug Quality and Security Act for the components of the pharmaceutical distribution supply chain.

The DCP commissioner must prohibit the distribution, dispensing, or sale outside the state of any prescription drug imported under the program.

Safety and Quality Requirements (§§ 1 & 7(a))

A participating wholesaler under the program must ensure the safety and quality of all drugs imported and distributed in the state under the program.

Drug Requirements. The drugs must (1) be approved for marketing in the United States; (2) not be adulterated or misbranded; and (3) meet all labeling requirements (e.g., content, prominence of information, and designation of established names) under federal law.

Laboratory Testing. Under the bill, "laboratory testing" is a quantitative and qualitative analysis of a drug consistent with the applicable provisions of the official United States Pharmacopoeia.

The bill requires a participating wholesaler to engage a qualifying laboratory (i.e. one in the United States approved by the FDA for purposes of the federal Food Drug and Cosmetic Act) to test for authenticity and degradation a (1) statistically valid sample size for each batch of each drug in the initial shipment and (2) statistically valid sample of the shipment.

The laboratory must do testing consistent with the federal Food, Drug and Cosmetic Act.

Laboratory Records Maintenance and Retention Requirements (§ 7(a) & (b))

Under the program, a participating wholesaler must maintain:

1. qualifying laboratory records, including complete data derived from all tests necessary to ensure that each drug imported under the program complies with the bill's safety and quality

requirements; and

2. documentation demonstrating that the required testing was done at a qualifying laboratory consistent with the federal Food, Drug and Cosmetic Act and all other applicable federal and state laws and regulations on qualifying laboratory qualifications.

After a qualifying laboratory submits information and documentation to the participating wholesaler, the wholesaler must keep them for at least three years from the submission date.

Participating Wholesaler Documentation Requirements (§ 7(c))

A participating wholesaler must also maintain the following information for each drug the wholesaler imports and distributes in the state under the program:

1. the name and quantity of the drug's active ingredient and a description of the drug's dosage form,

2. the date the participating wholesaler received the drug and the price the wholesaler paid,

3. the quantity the participating wholesaler received and the drug's point of origin and destination,

4. a report on any drug that fails qualifying laboratory testing, and

5. any additional information and documentation that the commissioner deems necessary to protect public health.

The wholesaler must submit the above information and documentation to the commissioner, upon the commissioner's request.

Participating Supplier Documentation Requirements (§ 7(d))

The DCP commissioner must require each participating Canadian supplier to maintain the following information and documentation for each drug the supplier exports into the state under the program:

1. the original source of the drug, including the manufacturer's

name and manufacture date and location;

2. the shipping date and quantity;

3. the quantity of each lot of the drug originally received and the source of the lot;

4. the lot or control number and batch number the manufacturer assigned to the drug; and

5. any additional information and documentation that the DCP commissioner deems necessary to ensure public health protection.

The supplier must submit the above information and documentation to the commissioner, upon the commissioner's request.

Authorized Emergency Actions for Public Health or Welfare (§ 8)

The bill authorizes the DCP commissioner to issue cease and desist, recall, embargo, or destruction orders to program participants when warranted and subject to administrative proceedings and penalties.

Cease and Desist Order. If the DCP commissioner determines that public health, safety, or welfare requires emergency action, the commissioner may order a participating Canadian supplier, participating wholesaler, relabeler, repacker, and qualifying laboratory to cease and desist from actions specified in the order pending administrative proceedings. The cease and desist order must be in writing and signed by the commissioner and is effective upon delivery to the respondent.

Administrative Proceeding and Civil Penalty. After a cease and desist order is issued, an administrative proceeding, done according to the Uniform Administrative Procedures Act, must begin promptly. After a hearing, the commissioner may impose a civil penalty up to $10,000.

Recall, Embargo, or Destruction. The commissioner may require the recall, embargo, or destruction of any drug that was imported and

distributed under the program that has been identified as adulterated or misbranded. Any such action must be done according to DCP's process for food, drug, and cosmetic seizures and embargoes in existing law, which includes a hearing and possible civil penalty.

Generally, a drug is deemed adulterated under several circumstances. For example, if it consists of any filthy, putrid, or decomposed substance; or has been produced, prepared, packed, or held under insanitary conditions so that it may have been contaminated with filth or made injurious to health.

Written Notice to Impacted Businesses. If a cease and desist, recall, embargo, or destruction order is issued, the person adversely impacted by the order must notify all other businesses participating in the program of the order. The notice must be in writing.

DCP Regulations and Report to the General Assembly (§§ 910)

If a Canadian prescription drug importation program is established, the bill requires the DCP commissioner to adopt implementing regulations.

By 180 days after the first importation and biannually after that, the commissioner must submit a report to the Appropriations, General Law, Human Services, and Public Health committees describing the program operation, any violations that resulted in action being taken by the commissioner, and the status of any violation investigations.

§§ 11-14 — IDENTIFIED PRESCRIPTION DRUGS

The bill sets a (1) cap on the prices for which pharmaceutical manufacturers and wholesale distributors can sell an identified prescription drug in the state and (2) civil penalty for violators, except for those that made less than $250,000 in total annual sales in the state for the calendar year for which the penalty is being imposed. It also creates a process by which an aggrieved person can request a hearing to dispute the penalty.

Price Cap on Identified Prescription Drugs (§§ 1 & 12(a))

Increase Based on Consumer Price Index. Starting January 1, 2026, regardless of state statute, the bill prohibits pharmaceutical manufacturers and wholesale distributors from selling an identified prescription drug in the state for more than its reference price, adjusted for any increase in the consumer price index.

Under the bill a "pharmaceutical manufacturer" is a person that manufactures a prescription drug and sells it, directly or through another person, for distribution in the state.

A "wholesale distributor" is a person engaged in the wholesale distribution of prescription drugs. This includes a repacker, own-label distributor, private-label distributor, or independent wholesale drug trader.

A "reference price" is the drug or biological product's wholesale acquisition price. For brand-name drugs or biological products, the reference price is the wholesale acquisition cost on January 1, 2025, or the date the patent expires, whichever is later. For generic drugs or interchangeable biological products, the reference price is the wholesale acquisition cost on January 1, 2025, or the date the drug or product is first commercially marketed in the U.S., whichever is later.

Drug Shortage. The bill makes one exception by allowing manufacturers and distributors to exceed this price, starting January 1, 2026, if the federal Health and Human Services secretary determines that there is a shortage of the drug in the United States and includes it on the drug shortage list.

Civil Penalty for Violating Price Cap (§ 12(b))

The bill imposes a civil penalty on pharmaceutical manufacturers and wholesale distributors that violate the price cap provision above. The civil penalty must be imposed, calculated, and collected by the state on a calendar year basis by the Department or Revenue Services (DRS) commissioner.

Penalty Calculation. The civil penalty amount for a calendar year

must be equal to 80% of the difference between the revenue that the pharmaceutical manufacturer or wholesale distributor:

1. earned from all sales of the identified prescription drug in the state during the calendar year; and

2. would have earned from these sales if the manufacturer or distributor had not sold the drug at a price over the bill's price cap.

Exception. The bill exempts from liability for the above civil penalty, pharmaceutical manufacturers or wholesale distributors of an identified prescription drug that made less than $250,000 in total annual sales in the state for the calendar year for which the civil penalty would otherwise be imposed.

Penalty Payment and Statement Filing (§ 12(c))

For calendar years starting January 1, 2026, each pharmaceutical manufacturer or wholesale distributor that violates the identified prescription drug price cap during any calendar year must, by March 1 immediately following the end of the calendar year:

1. pay the DRS commissioner the civil penalty for that calendar year; and

2. file with the DRS commissioner a statement for that calendar year.

The commissioner must prescribe the statement's form and manner and required information.

Electronic Filing and Wire Transfer. The manufacturer and distributor must file the statement electronically and pay the penalty by electronic funds transfer in the same way as filing and paying tax returns, regardless of whether they would have otherwise been required to do so under the law.

If no statement is filed as required above, the bill allows the DRS commissioner to make the statement at any time according to the best

obtainable information and the prescribed form.

Record Examination and Retention (§ 12(d) & (e))

DRS Commissioner's Examination. The commissioner may, as he deems necessary, examine the records of any pharmaceutical manufacturer or wholesale distributor subject to the civil penalty imposed for an identified prescription drug price cap violation described above.

Billing Due to Failure to Pay. After the examination, if the DRS commissioner determines that the pharmaceutical manufacturer or wholesale distributor failed to pay the full amount of the civil penalty, he must bill the pharmaceutical manufacturer or wholesale distributor for the full amount of the civil penalty.

Records Retention. Under the bill, to provide or secure information pertinent to the civil penalty enforcement and collection, the DRS commissioner may require each pharmaceutical manufacturer or wholesale distributor subject to penalty to (1) keep records as the commissioner may prescribe and (2) produce books, papers, documents, and other data.

Investigation. To verify the accuracy of any statement made or, to determine the amount of the civil penalty due if a statement was not made, the DRS commissioner or his authorized representative may (1) examine the books, papers, records, and equipment of anyone subject to the identified prescription drug price cap provisions and (2) investigate the character of their business.

Aggrieved Company's Request for a Hearing (§ 12(f))

Hearing Application. Any pharmaceutical manufacturer or wholesale distributor that is subject to the civil penalty and aggrieved by the DRS commissioner's actions above (i.e. making a statement, billing, records examination, and investigation) may apply to the commissioner for a hearing. This must be done in writing within 60 days after the notice of the action is delivered or mailed to the manufacturer or distributor.

The aggrieved pharmaceutical manufacturer or wholesale distributor must state in the application (1) why the hearing should be granted and (2) if they believe they are not liable for the civil penalty or the full amount of the civil penalty, the (a) grounds for the belief and (b) amount by which they believe the civil penalty should be reduced.

Hearing Denied or Granted. The DRS commissioner must promptly consider each application and notify the pharmaceutical manufacturer or wholesale distributor (1) immediately of a hearing denial or (2) of the date, time, and place for a hearing that is granted.

DRS Commissioner's Orders. After the hearing, the commissioner may make orders as appears just and lawful to him and must give a copy to the pharmaceutical manufacturer or wholesale distributor.

Hearing on the DRS Commissioner's Initiative. By notice and in writing, the commissioner may order a hearing on his own initiative and require a pharmaceutical manufacturer or wholesale distributor, or any other person the commissioner believes has relevant information, to appear before him, or his authorized agent, with any specified books of account, papers, or other documents for examination under oath.

Aggrieved Company's Appeal to Superior Court (§ 12(g))

Time Period to Appeal. Within 30 days after the aggrieved pharmaceutical manufacturer or wholesale distributor is served notice of the DRS commissioner's order, decision, determination, or disallowance, the manufacturer or distributor may appeal to the Superior Court for the New Britain judicial district.

Accompanying Citation. The appeal must be accompanied by a citation to the DRS commissioner to appear before the court. The citation must be signed by the same authority and the appeal must be returnable at the same time and served and returned in the same way as required for a summons in a civil action.

Bond or Recognizance With Surety. The authority issuing the citation must take from the appellant a bond or recognizance to the state, with surety, to prosecute the appeal to effect and to comply with the

court's orders and decrees.

Equitable Relief. Unless there is a reason otherwise, the appeals must be preferred cases and heard at the first session by the court or by a committee it appoints. The court may (1) grant equitable relief, and (2) if the civil penalty was paid before the relief was granted, order the state treasurer to pay the amount of the relief.

Costs Taxed. If the appeal was made without probable cause, the court may tax double or triple costs, as appropriate. For appeals that are denied, costs may be taxed against the pharmaceutical manufacturer or wholesale distributor, but not against the state, at the court's discretion.

DRS Commissioner's Authority (§ 12(h))

Administer Oaths. The commissioner may administer oaths and take testimony under oath for any inquiry or investigation. The commissioner's agent duly authorized to conduct any inquiry, investigation, or hearing under the provisions above also has these powers.

Subpoena Witnesses and Require Record Production. At any hearing the commissioner ordered, he may subpoena witnesses and require the production of books, papers, and documents relevant to the inquiry or investigation. The commissioner's agent authorized to conduct the hearing and having authority by law to issue the process also has these powers.

A witness under any subpoena authorized to be issued under these provisions must not be excused from testifying or from producing books, papers, or documentary evidence on the ground that the testimony or the production would tend to incriminate the witness, but the books, papers, or documentary evidence produced must not be used in any criminal proceeding against the witness.

Commitment to Community Correctional Center. If anyone disobeys the process or appears but refuses to answer the commissioner's or his agent's questions, the commissioner or the agent may apply to the Superior Court of the judicial district where the

pharmaceutical manufacturer or wholesale distributor resides or where the business was conducted, or to any judge of the court if it is not in session, stating the disobedience to process or refusal to answer.

The court or judge must cite the person to appear to answer the question or produce the books, papers, or other documentary evidence and, if they refuse to do so, must commit the person to a community correctional center until they testify, but not for more than 60 days.

Regardless of the person serving the term of commitment, the DRS commissioner may continue the inquiry and examination as if the witness had not previously been called to testify.

Fees and Compensation. Officers who serve subpoenas issued by the DRS commissioner or under his authority and witnesses attending hearings conducted by the commissioner under this provision must receive fees and compensation at the same rates as officers and witnesses in the state courts. This must be paid on vouchers of the DRS commissioner on order of the state comptroller from the proper appropriation for the administration of this provision.

State Collection and Attorney General's Lien Foreclosure (§ 12(i))

State Collection Agency Process. The amount of any unpaid civil penalty under the bill's price cap violations-related provisions may be collected using the process under existing law used by the state collection agency (i.e. the state treasurer; DRS commissioner; any other state official, board, or commission authorized to collect taxes payable to the state; and their duly authorized agents). Under the bill, the warrant issued under the collection process must be signed by the DRS commissioner or his authorized agent.

Lien on Real Property. The amount of the civil penalty must be a lien on the pharmaceutical manufacturer's or wholesale distributor's real property from the last day of the month next preceding the civil penalty's due date until it is paid.

The DRS commissioner may record the lien in the records of the town in which the real property is located, but the lien is not enforceable

against a bona fide purchaser or qualified encumbrancer of the real property.

Certificate of Discharge. When the civil penalty for which a lien was recorded is satisfied, the DRS commissioner must, upon request of any interested party, issue a certificate discharging the lien. The discharge certificate must be recorded in the same office in which the lien was recorded.

Foreclosure of the Lien. Any action for the foreclosure of the lien must be brought by the attorney general in the name of the state in the Superior Court for the judicial district in which the real property subject to the lien is located. If the real property is in two or more judicial districts, the action must be brought in the Superior Court for any one of the judicial districts.

The court may limit the time for redemption or order the sale of the real property or make any other decree as it judges equitable.

All civil penalties imposed under this provision can generally be applied as a reduction against any amount payable by the state to the person, as under existing law related to penalties due from taxpayers.

Officer's and Employee's Liability (§ 12(j))

Willful Failure to Perform. An officer or employee of a pharmaceutical manufacturer or wholesale distributor, who (1) owes a duty, on the manufacturer's or distributor's behalf, to pay the civil penalty, file the required statement with the commissioner, keep records, or supply information to the commissioner and (2) willfully fails to do so must, in addition to any other penalty provided by law, be fined up to $1,000, imprisoned up to one year, or both.

Regardless of existing limitations of prosecution for certain violations or offenses, the bill sets a three-year statute of limitations for prosecuting officers or employees for violations of these provisions committed on or after January 1, 2026.

Willful Delivery or Disclosure of Fraudulent or False Material. Any officer or employee of a pharmaceutical manufacturer or wholesale distributor who owes a duty, on the manufacturer's or distributor's behalf, to deliver or disclose to the commissioner, or his authorized agent, any list, statement, return, account statement, or other document and willfully delivers or discloses one the officer or employee knows is fraudulent or false in any material matter is guilty of a class D felony, in addition to any other penalty provided by law. (A class D felony is punishable by a fine up to $5,000, up to five years in prison, or both.)

Under the bill, an officer or employee may not be charged with an offense under both provisions above in relation to the same civil penalty but may be charged and prosecuted for both offenses based on the same information.

Waiver and Tax Credit Prohibited (§ 12(k))

The civil penalty imposed under the bill for violating the identified prescription drug price cap:

1. is excluded from Medicaid provider tax calculations;

2. cannot be waived by the Penalty Review Committee under existing law or any other applicable law; and

3. cannot be reduced by applying a tax credit.

List of Violators and Implementing Regulations (§ 12(l) & (m))

Starting by July 1, 2027, the bill requires the DRS commissioner to (1) annually prepare a list of the pharmaceutical manufacturers or wholesale distributors that violated the identified prescription drug price cap-related provisions during the preceding calendar year and (2) make each annual list publicly available.

The bill authorizes the commissioner to adopt regulations to implement its provisions related to identified prescription drug pricing and sales.

Withdrawal of Identified Prescription Drug (§ 13)

Required Notice to OHS. If a pharmaceutical manufacturer or wholesale distributor intends to withdraw an identified prescription drug from sale in the state, it must send written notice to the Office of Health Strategy (OHS) disclosing that intention at least 180 days before the withdrawal.

Withdrawal to Avoid Penalty Prohibited. The bill prohibits pharmaceutical manufacturer or wholesale distributor of an identified prescription drug from withdrawing the identified prescription drug from sale in the state to avoid the bill's civil penalty.

Penalty. Any pharmaceutical manufacturer or wholesale distributor that violates the withdrawal provisions above is liable to the state for a $500,000 civil penalty.

Civil Penalties to Be Deposited in the General Fund (§ 14)

All civil penalties collected from pharmaceutical manufacturers or wholesale distributors for violating the identified prescription drugs-related provisions of the bill (§§ 11-13) must be (1) deposited in the General Fund and (2) expended to promote access to affordable health care, and reduce patients' health care costs, in the state.

§ 15 — INDIVIDUAL AND GROUP HEALTH INSURANCE POLICIES AND HEALTH BENEFIT PLANS

Calculation of In-Network Liability for Out-of-Pocket Expense

Under the bill, when calculating an insured's or enrollee's in-network liability for his or her out-of-pocket expense (i.e. annual coinsurance, copayment, deductible, or other in-network out-of-pocket expense), each health carrier (see below) that delivers, issues for delivery, renews, amends or continues an individual or a group health insurance policy or health benefit plan in the state on or after January 1, 2026, must give credit for any out-of-pocket expense the insured or enrollee pays directly to any state-licensed pharmacy or health care provider licensed in this state, for any prescription drug, as long as:

1. no claim for the prescription drug was submitted to the insurer,

center, corporation, society, or other entity; and

2. the out-of-pocket expense paid by the insured or enrollee to the pharmacy or health care provider is less than the average discounted rate for the prescription drug paid to an in-network health care provider according to the terms of the policy or plan.

Applicability. Under the bill, this applies to insurers, health care centers, hospital service corporations, medical service corporations, fraternal benefit societies or other entities ("health carriers") providing (1) basic hospital expense coverage, (2) basic medical-surgical expense coverage, (3) major medical expense coverage, (4) hospital or medical service plan contract, and (5) hospital and medical coverage to subscribers of a health care center. Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

Prescription Drug From Out-of-Network Health Care Provider

Under the bill, if any insured or enrollee purchases a prescription drug from any out-of-network health care provider for a lower amount than the average amount paid by the insured's or enrollee's health carrier to any in-network health care provider for the same prescription drug, the health carrier, when calculating the insured's or enrollee's liability for in-network annual out-of-pocket expense, must give credit for the purchase, if the insured or enrollee provides the health carrier with proof of payment following the requirements below.

Preauthorization and Precertification. The bill specifies that it must not be construed to restrict any health insurance policy or health benefit plan from requiring a prior authorization or precertification otherwise provided for in the insured's or enrollee's health insurance policy or health benefit plan.

Proof of Payment to Out-of-Network Provider

Proof of Payment Form and Instructions. The bill requires health carriers to (1) develop a proof of payment form and publish it on their website for insureds and enrollees to submit proof of payment for any

out-of-network prescription drug purchase as described above, and (2) annually give them written notice of, and instructions for downloading or electronic submission of, the proof of payment form.

Credit Upon Receipt of Proof of Payment Form. Upon receipt of a proof of payment form from an insured or enrollee, each health carrier must give credit for any out-of-pocket payments that the insured or enrollee paid to any out-of-network pharmacy or health care provider under the provision above, if the:

1. prescription drug the insured or enrollee purchased is included under his or her health insurance policy or health benefit plan, and

2. insured or enrollee purchased the prescription drug for a lower price than the average amount paid by the health carrier to an in-network health care provider for the same prescription drug.

Out-of-Pocket Maximum and Prohibited Carryover

Under the bill, the total amount credited toward any insured's or enrollee's annual out-of-pocket expense for prescription drugs purchased from an out-of-network health care provider must not (1) exceed the total amount that the insured or enrollee is required to pay out-of-pocket under the terms of the health insurance policy or health benefit plan during a policy period, and (2) carry over to a new policy period.

BACKGROUND

Related Bills

sSB 11, favorably reported by the Human Services Committee, has substantially similar provisions related to the (1) establishment of a Canadian prescription drug importation program and (2) sale of identified prescription drug by pharmaceutical manufacturers and wholesale distributors, including a price cap and civil penalties for violations.

sHB 7192, favorably reported by the Human Services Committee, has substantially similar provisions related to the establishment of a

Canadian prescription drug importation program.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 12 Nay 1 (03/11/2025)