

STATE OF NEW YORK

663

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. D. ROSENTHAL, DICKENS, COLTON, WILLIAMS, SEAWRIGHT, COOK, O'DONNELL, SIMON, ABINANTI, JACOBSON -- Multi-Sponsored by -- M. of A. GALEF, SALKA -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring certain manufacturers of prescription drugs to notify the drug utilization review board of the proposed increase of the wholesale acquisition cost of such prescription drugs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 277-a to read as follows:

3 § 277-a. Notification of prescription drug price increases by manufac-
4 turers. 1. This section shall apply to a manufacturer of a prescription
5 drug that is purchased or reimbursed by any of the following:

6 (a) An insurance company authorized in this state to write accident
7 and health insurance, a company organized pursuant to article forty-
8 three of the insurance law, a municipal cooperative health benefit plan
9 established pursuant to article forty-seven of the insurance law, an
10 organization certified pursuant to article forty-four of this chapter,
11 an institution of higher education certified pursuant to section one
12 thousand one hundred twenty-four of the insurance law, or the New York
13 state health insurance plan established pursuant to article eleven of
14 the civil service law; or

15 (b) A pharmacy benefit manager, including an entity that directly or
16 through an intermediary, manages the prescription drug coverage provided
17 by a health insurer under a contract or policy delivered or issued for
18 delivery in this state or a health plan subject to section three hundred
19 sixty-four-j of the social services law, including the processing and
20 payment of claims for prescription drugs, the performance of drug utili-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 zation review, the processing of drug prior authorization requests, the
2 adjudication of appeals or grievances related to prescription drug
3 coverage, contracting with network pharmacies, and controlling the cost
4 of covered prescription drugs.

5 2. (a) A manufacturer of a prescription drug with a wholesale acquisi-
6 tion cost of more than forty dollars for a course of therapy shall noti-
7 fy the drug utilization review board if the increase in the wholesale
8 acquisition cost of such prescription drug is more than ten percent,
9 including the proposed increase and the cumulative increases that
10 occurred within the previous two calendar years prior to the current
11 year. For purposes of this section, a "course of therapy" is defined as
12 either of the following:

13 (i) the recommended daily dosage units of a prescription drug pursuant
14 to its prescribing label as approved by the federal Food and Drug Admin-
15 istration for thirty days; or

16 (ii) the recommended daily dosage units of a prescription drug pursu-
17 ant to its prescribing label as approved by the federal Food and Drug
18 Administration for a normal course of treatment that is less than thirty
19 days.

20 (b) The notice required by paragraph (a) of this subdivision shall be
21 provided in writing to the drug utilization review board at least sixty
22 days prior to the planned effective date of the increase.

23 (c) (i) The notice required by paragraph (a) of this subdivision shall
24 include the date of the increase, the current wholesale acquisition cost
25 of the prescription drug, and the dollar amount of the future increase
26 in the wholesale acquisition cost of the prescription drug.

27 (ii) The notice required by paragraph (a) of this subdivision shall
28 include a statement regarding whether a change or improvement in the
29 drug necessitates the price increase. If so, the manufacturer shall
30 describe the change or improvement.

31 (d) In the event that a manufacturer of a prescription drug subject to
32 this section does not report the information required in paragraph (a)
33 of this subdivision, the commissioner is authorized to levy a civil
34 penalty, after notice and a hearing, against such manufacturer of up to
35 one thousand dollars per day for every day after the reporting period
36 described in this section that the required information is not reported.

37 § 2. This act shall take effect immediately.