

STATE OF NEW YORK

2393

2023-2024 Regular Sessions

IN SENATE

January 20, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring individual and small group insurance carriers and group and blanket accident and health carriers to certify that at least a majority of prescription drug rebates are provided to patients at the point of sale

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

1 Section 1. Paragraph 1 of subsection (e) of section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended by
2 adding a new subparagraph (C) to read as follows:

3 (C) an insurer shall annually certify to the department that, during
4 the prior benefit year, the insurer made available to enrollees at the
5 point of sale at least a majority (i.e., greater than fifty percent) of
6 the rebates received by such insurer or any third party administering
7 prescription drug benefits on behalf of such insurer.

8 (i) For purposes of this paragraph, "rebate" means:

9 (1) negotiated price concessions including but not limited to base
10 rebates and reasonable estimates of any price protection rebates and
11 performance-based rebates that may accrue directly or indirectly to the
12 issuer during the coverage year from a manufacturer, dispensing pharmacy,
13 or other party to the transaction, and

14 (2) reasonable estimates of any fees and other administrative costs
15 that are passed through to the issuer and serve to reduce the issuer's
16 prescription drug liabilities for the coverage year.

17 (ii) In providing the certification required under this subparagraph,
18 an issuer shall share information regarding the actual amount of rebates
19 the issuer received on a product-, manufacturer- or pharmacy-specific
20 basis with the department and the amount that was passed through to
21 consumers. Any information shared under this subparagraph shall be
22 confidential and not subject to disclosure by the department.
23

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

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§ 2. Subsection (b) of section 3221 of the insurance law is amended to read as follows:

(b) (1) No such policy shall be delivered or issued for delivery in this state unless a schedule of the premium rates pertaining to such form shall have been filed with the superintendent.

(2) An insurer shall annually certify to the department that, during the prior benefit year, the insurer made available to enrollees at the point of sale at least a majority (i.e., greater than fifty percent) of the rebates received by such insurer or any third party administering prescription drug benefits on behalf of such insurer.

(A) For purposes of this paragraph, "rebate" means:

(i) negotiated price concessions including but not limited to base rebates and reasonable estimates of any price protection rebates and performance-based rebates that may accrue directly or indirectly to the issuer during the coverage year from a manufacturer, dispensing pharmacy, or other party to the transaction, and

(ii) reasonable estimates of any fees and other administrative costs that are passed through to the issuer and serve to reduce the issuer's prescription drug liabilities for the coverage year.

(B) In providing the certification required under this subsection, an issuer shall share information regarding the actual amount of rebates the issuer received on a product-, manufacturer- or pharmacy-specific basis with the department and the amount that was passed through to consumers. Any information shared under this subparagraph shall be confidential and not subject to disclosure by the department.

§ 3. This act shall take effect immediately.