

STATE OF NEW YORK

6489

2019-2020 Regular Sessions

IN SENATE

June 13, 2019

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

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 subdivision (e) of section 3231 of the
2 insurance law is amended by adding a new subparagraph (C) to read as
3 follows:

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

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

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

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

18 (ii) In providing the certification required under this subparagraph,
19 an issuer shall not publish or otherwise reveal information regarding
20 the actual amount of rebates the issuer received on a product-, manufac-
21 turer- or pharmacy-specific basis. Such information is protected as a
22 trade secret, is not a public record as defined in the public officers
23 law and shall not be disclosed directly or indirectly. An insurer shall

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

LBD13316-01-9

1 impose the confidentiality protections of this subparagraph on any third
2 parties or vendors with which it contracts that may receive or have
3 access to rebate information.

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

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

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

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

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

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

23 (B) In providing the certification required under this subdivision, an
24 issuer shall not publish or otherwise reveal information regarding the
25 actual amount of rebates the issuer received on a product-, manufactur-
26 er- or pharmacy-specific basis. Such information is protected as a trade
27 secret, is not a public record as defined in the public officers law and
28 shall not be disclosed directly or indirectly. An insurer shall impose
29 the confidentiality protections of this subdivision on any third parties
30 or vendors with which it contracts that may receive or have access to
31 rebate information.

32 § 3. This act shall take effect immediately.