STATE OF NEW YORK

5218--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 12, 2021

Introduced by M. of A. WALKER -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Paragraph 1 of subsection (e) of section 3231 of the insurance law is amended by adding a new subparagraph (C) to read as follows:

(C) 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.

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

(1) 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

(2) 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.

(ii) In providing the certification required under this subparagraph, an issuer shall not publish or otherwise reveal information regarding the actual amount of rebates the issuer received on a product-, manufacturer- or pharmacy-specific basis. Such information is protected as a trade secret, is not a public record as defined in the public officers 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.

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

§ 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 not publish or otherwise reveal information regarding the actual amount of rebates the issuer received on a product-, manufacturer- or pharmacy-specific basis. Such information is protected as a trade secret, is not a public record as defined in the public officers law and shall not be disclosed directly or indirectly. An insurer shall impose the confidentiality protections of this subsection on any third parties or vendors with which it contracts that may receive or have access to rebate information.

§ 3. This act shall take effect immediately.