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:

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

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

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

(b) A pharmacy benefit manager, including an entity that directly or through an intermediary, manages the prescription drug coverage provided by a health insurer under a contract or policy delivered or issued for delivery in this state or a health plan subject to section three hundred sixty-four-j of the social services law, including the processing and 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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zation review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.