

STATE OF NEW YORK

8836

IN ASSEMBLY

January 18, 2024

Introduced by M. of A. BERGER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring the commissioner of health to include in annual reports information regarding the cost and increase in cost of certain prescription drugs

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

1 Section 1. Subdivision 1 of section 277 of the public health law, as
2 amended by section 18 of part A of chapter 56 of the laws of 2013, is
3 amended to read as follows:

4 1. The commissioner, in consultation with the drug utilization review
5 board, shall undertake periodic reviews, at least annually, of the
6 preferred drug program which shall include consideration of:

7 (a) the volume of prior authorizations being handled, including data
8 on the number and characteristics of prior authorization requests for
9 particular prescription drugs;

10 (b) the quality of the program's responsiveness, including the quality
11 of the administrator's responsiveness;

12 (c) complaints received from patients and providers;

13 (d) (i) a list of the ten prescription drugs on which the state
14 expends the most money and for which the wholesale acquisition cost has
15 increased by fifty percent or more over the past five years or by ten
16 percent or more during the previous calendar year. The commissioner
17 shall: include the percentage of the wholesale acquisition cost increase
18 for each drug on the list; rank the drugs on the list from those with
19 the largest increase in wholesale acquisition cost to those with the
20 smallest increase; indicate whether each drug was included on the list
21 based on its cost increase over the past five years or during the previ-
22 ous calendar year, or both; and provide the state's total expenditure
23 for each drug on the list during the most recent calendar year; and

24 (ii) a list of the ten prescription drugs on which the state expends
25 the most money and for which the cost to the state, net of rebates and
26 other price concessions, has increased by fifty percent or more over the
27 past five years or by ten percent or more during the previous calendar

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

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1 year. The commissioner shall rank the drugs on the list from those with
2 the greatest increase in net cost to those with the smallest increase
3 and indicate whether each drug was included on the list based on its
4 cost increase over the past five years or during the previous calendar
5 year, or both; and

6 (iii) a manufacturer of a prescription drug that appears on a list as
7 described in subparagraph (i) or (ii) of this paragraph shall submit to
8 the commissioner a report that explains: (A) all material factors that
9 have contributed to the wholesale acquisition cost increase for such
10 drug including but not limited to materials and manufacturing costs,
11 spending on research and development costs, spending on marketing and
12 advertising, and spending on patient assistance programs; (B) the
13 percentage of the total wholesale acquisition cost increase attributable
14 to each factor; (C) an explanation of the role of each factor in
15 contributing to the wholesale acquisition cost increase; (D) the total
16 revenue and the net profit of the manufacturer for the most recent
17 calendar year; and (E) any additional information the manufacturer
18 chooses to provide related to drug pricing decisions;

19 (e) the savings attributable to the state, and to each county and the
20 city of New York, due to the provisions of this article;

21 [~~e~~] (f) the aggregate amount of supplemental rebates received in the
22 previous fiscal year and in the current fiscal year, to date; and such
23 amounts are to be broken out by fiscal year and by month;

24 [~~f~~] (g) the education and outreach program established by section
25 two hundred seventy-six of this [~~article~~] title.

26 § 2. This act shall take effect immediately.