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:

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

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

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

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

(c) complaints received from patients and providers;

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

(ii) a list of the ten prescription drugs on which the state expends the most money and for which the cost to the state, net of rebates and other price concessions, has increased by fifty percent or more over the 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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year. The commissioner shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both; and

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

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

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

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

§ 2. This act shall take effect immediately.