

STATE OF NEW YORK

7142

2025-2026 Regular Sessions

IN ASSEMBLY

March 20, 2025

Introduced by M. of A. WALKER, DILAN, TAPIA, ALVAREZ, REYES, HYNDMAN, SEPTIMO, DE LOS SANTOS, ZACCARO, JACKSON, SANTABARBARA, TAYLOR, RIVERA, CRUZ -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to requiring certain health insurance issuers 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. The insurance law is amended by adding a new section 3246
2 to read as follows:

3 § 3246. Ensuring fairness in certain cost sharing. (a) As used in this
4 section, the following terms shall have the following meanings:

5 (1) "Defined cost sharing" means a deductible payment or coinsurance
6 amount imposed on an enrollee for a covered prescription drug under the
7 enrollee's health plan.

8 (2) "Insurer" means any health insurance issuer that is subject to
9 state law regulating insurance and offers health insurance coverage, as
10 defined in 42 U.S.C. § 300gg-91, or any state or local governmental
11 employer plan.

12 (3) "Price protection rebate" means a negotiated price concession that
13 accrues directly or indirectly to the insurer, or other party on behalf
14 of the insurer, in the event of an increase in the wholesale acquisition
15 cost of a drug above a specified threshold.

16 (4) "Rebate" means:

17 (A) Negotiated price concessions including but not limited to base
18 price concessions, whether described as a rebate or otherwise, and
19 reasonable estimates of any price protection rebates and performance-
20 based price concessions that may accrue directly or indirectly to the
21 insurer during the coverage year from a manufacturer, dispensing pharma-

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

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1 cy, or other party in connection with the dispensing or administration
2 of a prescription drug, and

3 (B) Reasonable estimates of any negotiated price concessions, fees and
4 other administrative costs that are passed through, or are reasonably
5 anticipated to be passed through, to the insurer and serve to reduce the
6 insurer's liabilities for a prescription drug.

7 (b) An enrollee's defined cost sharing for each prescription drug
8 shall be calculated at the point of sale based on a price that is
9 reduced by an amount equal to at least eighty-five percent of all
10 rebates received, or to be received, in connection with the dispensing
11 or administration of the prescription drug. Nothing shall preclude an
12 insurer from decreasing an enrollee's defined cost sharing by an amount
13 greater than that required under this subsection.

14 (c) An insurer shall submit to the superintendent by the first of
15 January of each year a certification in a form to be established by the
16 superintendent attesting that it has complied with the requirements of
17 subsection (b) of this section for the prior calendar year.

18 (d) In complying with the provisions of this section, an insurer or
19 its agents shall not publish or otherwise publicly reveal information
20 regarding the actual amount of rebates an insurer receives on a product
21 or therapeutic class of products, manufacturer, or pharmacy-specific
22 basis. Such information shall be exempt from disclosure under section
23 eighty-seven of the public officers law and shall not be disclosed
24 directly or indirectly, or in a manner that would allow for the iden-
25 tification of an individual product, therapeutic class of products, or
26 manufacturer, or in a manner that would have the potential to compromise
27 the financial, competitive, or proprietary nature of such information.
28 An insurer shall impose the confidentiality protections of this subdivi-
29 sion on any vendor or downstream third-party that performs health care
30 or administrative services on behalf of the insurer that may receive or
31 have access to rebate information.

32 § 2. The insurance law is amended by adding a new section 4331 to read
33 as follows:

34 § 4331. Ensuring fairness in certain cost sharing. (a) As used in this
35 section, the following terms shall have the following meanings:

36 (1) "Defined cost sharing" means a deductible payment or coinsurance
37 amount imposed on an enrollee for a covered prescription drug under the
38 enrollee's health plan.

39 (2) "Corporation" means any health insurance issuer that is subject to
40 state law regulating insurance and offers health insurance coverage, as
41 defined in 42 U.S.C. § 300gg-91, or any state or local governmental
42 employer plan.

43 (3) "Price protection rebate" means a negotiated price concession that
44 accrues directly or indirectly to the corporation, or other party on
45 behalf of the corporation, in the event of an increase in the wholesale
46 acquisition cost of a drug above a specified threshold.

47 (4) "Rebate" means:

48 (A) Negotiated price concessions including but not limited to base
49 price concessions, whether described as a rebate or otherwise, and
50 reasonable estimates of any price protection rebates and performance-
51 based price concessions that may accrue directly or indirectly to the
52 corporation during the coverage year from a manufacturer, dispensing
53 pharmacy, or other party in connection with the dispensing or adminis-
54 tration of a prescription drug, and

55 (B) Reasonable estimates of any negotiated price concessions, fees and
56 other administrative costs that are passed through, or are reasonably

1 anticipated to be passed through, to the corporation and serve to reduce
2 the corporation's liabilities for a prescription drug.

3 (b) An enrollee's defined cost sharing for each prescription drug
4 shall be calculated at the point of sale based on a price that is
5 reduced by an amount equal to at least eighty-five percent of all
6 rebates received, or to be received, in connection with the dispensing
7 or administration of the prescription drug. Nothing shall preclude a
8 corporation from decreasing an enrollee's defined cost sharing by an
9 amount greater than that required under this subsection.

10 (c) A corporation shall submit to the superintendent by the first of
11 January of each year a certification in a form to be established by the
12 superintendent attesting that it has complied with the requirements of
13 subsection (b) of this section for the prior calendar year.

14 (d) In complying with the provisions of this section, a corporation or
15 its agents shall not publish or otherwise publicly reveal information
16 regarding the actual amount of rebates a corporation receives on a prod-
17 uct or therapeutic class of products, manufacturer, or pharmacy-specific
18 basis. Such information shall be exempt from disclosure under section
19 eighty-seven of the public officers law and shall not be disclosed
20 directly or indirectly, or in a manner that would allow for the iden-
21 tification of an individual product, therapeutic class of products, or
22 manufacturer, or in a manner that would have the potential to compromise
23 the financial, competitive, or proprietary nature of such information. A
24 corporation shall impose the confidentiality protections of this subdi-
25 vision on any vendor or downstream third-party that performs health care
26 or administrative services on behalf of the corporation that may receive
27 or have access to rebate information.

28 § 3. The public health law is amended by adding a new section 4417 to
29 read as follows:

30 § 4417. Ensuring fairness in certain cost sharing. 1. As used in this
31 section, the following terms shall have the following meanings:

32 (a) "Defined cost sharing" means a deductible payment or coinsurance
33 amount imposed on an enrollee for a covered prescription drug under the
34 enrollee's health plan.

35 (b) "Organization" means any health insurance issuer that is subject
36 to state law regulating insurance and offers health insurance coverage,
37 as defined in 42 U.S.C. § 300gg-91, or any state or local governmental
38 employer plan.

39 (c) "Price protection rebate" means a negotiated price concession that
40 accrues directly or indirectly to the organization, or other party on
41 behalf of the organization, in the event of an increase in the wholesale
42 acquisition cost of a drug above a specified threshold.

43 (d) "Rebate" means:

44 (i) Negotiated price concessions including but not limited to base
45 price concessions, whether described as a rebate or otherwise, and
46 reasonable estimates of any price protection rebates and performance-
47 based price concessions that may accrue directly or indirectly to the
48 organization during the coverage year from a manufacturer, dispensing
49 pharmacy, or other party in connection with the dispensing or adminis-
50 tration of a prescription drug, and

51 (ii) Reasonable estimates of any negotiated price concessions, fees
52 and other administrative costs that are passed through, or are reason-
53 ably anticipated to be passed through, to the organization and serve to
54 reduce the organization's liabilities for a prescription drug.

55 2. An enrollee's defined cost sharing for each prescription drug shall
56 be calculated at the point of sale based on a price that is reduced by

1 an amount equal to at least eighty-five percent of all rebates received,
2 or to be received, in connection with the dispensing or administration
3 of the prescription drug. Nothing shall preclude an organization from
4 decreasing an enrollee's defined cost sharing by an amount greater than
5 that required under this subdivision.

6 3. An organization shall submit to the superintendent by the first of
7 January of each year a certification in a form to be established by the
8 superintendent attesting that it has complied with the requirements of
9 subdivision two of this section for the prior calendar year.

10 4. In complying with the provisions of this section, an organization
11 or its agents shall not publish or otherwise publicly reveal information
12 regarding the actual amount of rebates an organization receives on a
13 product or therapeutic class of products, manufacturer, or pharmacy-spe-
14 cific basis. Such information shall be exempt from disclosure under
15 section eighty-seven of the public officers law and shall not be
16 disclosed directly or indirectly, or in a manner that would allow for
17 the identification of an individual product, therapeutic class of
18 products, or manufacturer, or in a manner that would have the potential
19 to compromise the financial, competitive, or proprietary nature of such
20 information. An organization shall impose the confidentiality
21 protections of this subdivision on any vendor or downstream third-party
22 that performs health care or administrative services on behalf of the
23 organization that may receive or have access to rebate information.

24 § 4. This act shall take effect immediately and apply to contracts
25 issued, renewed or amended on or after January 1, 2025.