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Senate Bill 47 (as introduced 1-27-09) Sponsor: Senator Roger Kahn, M.D.

Committee: Health Policy

Date Completed: 3-2-09

CONTENT

The bill would amend the Public Health Code to require the Department of Community Health (DCH) to create and operate a website containing price information on prescription drugs; and require the DCH to establish and maintain a toll-free telephone number for information on prescription drug programs available in the State.

Prescription Drug Website

The bill would require the DCH to create and operate a website to educate consumers about the price of certain prescription drugs and to provide links to other helpful websites, including those that may assist and educate consumers on the availability of public and private programs that offer access to discounted or free prescription drugs in compliance with Federal and State rules and regulations.

The DCH would have to include all of the following on the prescription drug website:

- -- A list of the 150 most commonly prescribed brand name drug products, as reported by the State's Medicaid program.
- -- If not on that list, the most commonly prescribed brand name drug products used for the treatment of all major illnesses and diseases, as determined by the DCH.
- -- If available, the generically equivalent drug products for the listed brand name drugs.
- -- The usual and customary price of each listed brand name drug and generic equivalent.

The price information on the website would have to display conspicuously all of the following:

- -- If available, the generically equivalent drug product for each brand name drug product.
- -- The price attributable to each brand name and generically equivalent drug product.
- -- The dosage, including the number of doses and dosage strength, upon which the posted price was based.
- -- The name, street address, and city or other identifiable location of the pharmacy at which the listed drug product could be purchased at a posted price.

Additionally, the website would have to include a minimum of five links to other websites (as described above) and the DCH's toll-free telephone number created under the bill. The website also would have to include advisory statements alerting consumers of the need to tell their health professional and pharmacist about all the medications they were taking and to ask how to avoid harmful interactions between those medications, if any; and that the posted price was only for the strength and quantity of the listed drug product.

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At least once a month, the DCH would have to obtain from the person that it contracted to serve as its pharmacy benefits manager (PBM) for the Medicaid program the usual and customary drug price for the most commonly prescribed drugs identified to the PBM by each pharmacy filling or refilling a prescription under the Medicaid program. The DCH would have to include this information on the website. The bill specifies that these provisions would not require a pharmacy that filled or refilled a prescription drug under the Medicaid program to provide any information in addition to that currently being reported to the Medicaid PBM.

Under the bill, "usual and customary price" would mean the price that is comparable to what a pharmacy would charge a cash-paying customer without insurance. The term would not include discounts, special promotions, or other programs initiated to reduce prices for product costs available to the general public or to a special population.

Accuracy of Price Information; Annual Report

The DCH would have to establish a mechanism by which a pharmacy listed on the website could notify the Department of an incorrect usual and customary price for a drug available at that pharmacy and submit the correct price. The mechanism would have to allow the pharmacy to submit the correct price to the DCH in a format prescribed by the Department via electronic mail, facsimile, toll-free telephone number, or other method of electronic submission. Within three business days of receiving the submission, the DCH would have to verify whether the information submitted was accurate and, if so, update the website with the correct price.

Beginning June 1, 2009, the DCH would have to prepare and submit an annual report that assessed the accuracy of the usual and customary prices posted on the website as received from the Medicaid PBM and from any other PBM that supplied information to the Department. The DCH would have to include in the report the number of notifications of incorrect prices received from pharmacies, the number of those notifications that were verified, and the number of drug product prices that were corrected on the website. The DCH would have to submit the report to the Governor, the Legislature, and representatives of the House and Senate Fiscal Agencies.

Prescription Drug Telephone Number

The bill would require the DCH to establish and maintain a toll-free telephone number that a person could call for information on prescription drug programs available in Michigan, including free and discounted drug programs. The Department could use an existing toll-free telephone line to satisfy this requirement.

Proposed MCL 333.9721 Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The Department of Community Health currently operates a prescription drug website that offers consumers access to information regarding commonly prescribed drugs. This bill, however, would require that the Department significantly expand the existing website. The Department could be expected to incur additional administrative costs associated with updating and maintaining a more comprehensive and detailed prescription drug website. Boilerplate section 285 of Public Act 246 of 2008 (the DCH budget act for FY 2008-09) directs the Department to complete a study on the costs associated with expanding the State's prescription drug website and report any findings to the Legislature by May 1, 2009. This pending cost study should provide a reasonable estimate of the fiscal impact associated with the expansion of the prescription drug website.

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.