SUBJECT: Changing the drug reimbursement methodology for Medicaid and CHIP

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 24 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Cosper, S. Davis, Dean, Giddings, Gonzales, González, Howard, Koop, Miller, Muñoz, Perez, Phelan, Raney, Roberts, J. Rodriguez, Sheffield, Simmons, VanDeaver, Walle

0 nays

3 absent — Dukes, Rose, Wu

WITNESSES: For — Kenneth Cattles, Duane Galligher, and Tammy Gray, Texas Independent Pharmacies Association; (*Registered, but did not testify*: Edgar Walsh, Jeffrey Warnken, and Trena Weidmann, Texas Independent Pharmacies Association; Justin Hudman, Texas Pharmacy Association; Joseph Green, Travis County Commissioners Court; Gary Anderson)

Against — Laurie Vanhoose, Texas Association of Health Plans; (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Mindy Ellmer, Pharmaceutical Care Management Association; Amanda Martin, Texas Association of Business)

On — David Gonzales, Alliance of Independent Pharmacies of Texas; John Heal, Pharmacy Buying Association d/b/a Texas TrueCare Pharmicies; Jay Bueche, Texas Federation of Drug Stores; (*Registered, but did not testify*: Rachel Butler and Katherine Scheib, Health and Human Services Commission; John Chaddick, Texas Association of Community Health Plans; Bradford Shields, Texas Federation of Drug Stores)

DIGEST: HB 1133 would require a contract between a managed care organization (MCO) and the Health and Human Services Commission (HHSC) for health care services to contain a requirement that the MCO develop, implement, and maintain an outpatient pharmacy benefit plan that would comply with the reimbursement methodology for prescription drugs as specified by the bill. The reimbursement methodology would apply to MCOs providing pharmacy benefits under the Children's Health Insurance Program (CHIP) and Texas Medicaid or a pharmacy benefit manager administering a pharmacy benefit program on behalf of the MCO. The Medicaid vendor drug program also would use the reimbursement methodology specified in the bill.

The reimbursement methodology in HB 1133 would require MCOs contracting with HHSC or a pharmacy benefit manager administering a pharmacy benefit program on behalf of the MCO to, at a minimum, reimburse prescription drugs at the lesser of the following two amounts:

- the average of Texas pharmacies' actual acquisition cost for the drug, plus a dispensing fee that was not less than a minimum amount adopted by rule by the executive commissioner; or
- the amount claimed by the pharmacy or pharmacist, including the gross amount due or the usual and customary charge to the public for the drug.

The methodology used to determine Texas pharmacies' actual acquisition cost would be consistent with the actual prices Texas pharmacies paid to acquire prescription drugs marketed or sold by a specific manufacturer and could be based on the National Average Drug Acquisition Cost published by the Centers for Medicare and Medicaid Services or another publication approved by the executive commissioner of HHSC. The dispensing fee would be based on Texas pharmacies' dispensing costs for prescription drugs.

The executive commissioner would develop a process for the periodic study of Texas pharmacies' actual acquisition cost for prescription drugs and would publish the study results on HHSC's website. HHSC also would study Texas pharmacies' dispensing costs for prescription drugs at least every five years, and the executive commissioner would have to consider amending the minimum dispensing fee based on the study results.

HB 1133 would require contracts between MCOs and HHSC to provide to a network pharmacy the sources used to determine the actual acquisition cost pricing as well as a procedure for challenging a listed acquisition cost price for a drug. Denied challenges for each drug would be reported to HHSC. The contract under HB 1133 would require the MCO or pharmacy benefit manager to review and update drug reimbursement price information at least once every seven days to reflect any modification of the actual acquisition cost pricing or the factors used to determine that pricing. MCOs or pharmacy benefit managers would provide a process for network pharmacy providers to readily access drug reimbursement price lists.

If, before implementing any provision of HB 1133, a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of that provision, the agency affected by the provision would request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The bill would take effect March 1, 2018

SUPPORTERS SAY:

HB 1133 would help ensure pharmacies received fairer reimbursement for Medicaid managed care prescriptions. Since prescription drug benefits were added to Medicaid managed care in 2012, the pharmacy benefit managers that administer pharmacy benefits for MCOs have routinely reimbursed pharmacies at below the acquisition cost for many drugs. Far from making a profit, many pharmacies do not receive even the cost of acquiring the drug when they fill a Medicaid or CHIP prescription under the current system.

HB 1133 would allow Medicaid managed care reimbursements for prescription drugs to be tied to a more steady and accurate pricing benchmark: the National Average Drug Acquisition Cost (NADAC). Allowing the use of the NADAC would improve transparency in prescription drug reimbursement rates and be fairer to pharmacies, patients, and taxpayers.

HHSC already has fixed these problems in the Medicaid fee-for-service system, but most Medicaid pharmacy services are provided under managed care, not fee-for-service. The bill also would help ensure that pharmacies could be reimbursed at more similar rates because the current system allows different rates for pharmacies even on the same street. This negatively affects local, independent pharmacies.

The bill would have little if any fiscal impact to the state and would ensure that tax dollars were used responsibly for Medicaid pharmacy benefits. Using a different reimbursement methodology is not a mandate. The bill would not require the use of the NADAC and would allow the executive commissioner to use a different publication. The bill would not affect which drugs were covered by a Medicaid or CHIP plan, the generics or brand name medications covered by a plan, the formulary for these plans, or rebates. The bill simply would increase fairness for prescription drug benefits in MCO contracts.

OPPONENTS SAY:

HB 1133 could result in a direct fiscal cost to the state by increasing the average reimbursement amount for Medicaid and CHIP drug claims. The existing reimbursement methodology is preferable to the proposed NADAC pricing system because the maximum available cost list is used by most states to determine Medicaid reimbursement rates, and this list is more representative of the actual cost to pharmacies of dispensing a prescription drug. The NADAC system, by contrast, could hold the state of Texas to reimbursing pharmacies at a higher cost because the NADAC price list does not reflect any discounts, rebates, or concessions that pharmacies may have received. The bill also could mandate Medicaid pricing and reduce private market competition because the rates for pharmacy reimbursement currently are negotiated separately for each contract.

NOTES:

The Legislative Budget Board's fiscal note states the fiscal implications of the bill cannot be determined at this time but that a significant cost is anticipated.