

## **BILL ANALYSIS**

Senate Research Center  
78R1277 CLG-D

S.B. 1186  
By: Janek  
Health & Human Services  
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### **DIGEST AND PURPOSE**

Currently, the Texas Medicaid program does not use Pharmacy Benefit Managers (PBM) or preferred drug lists as a cost containment strategy. As proposed, S.B. 1186 requires the Health and Human Services Commission to contract with a PBM for the Medicaid program and to issue supplemental rebates. This bill also requires prior authorization and the development of a preferred drug list, creates a Medical Assistance Pharmaceutical and Therapeutics Committee, and provides for confidential pricing and rebates.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1 (Section 32.0467, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 32B, Human Resources Code, by adding Sections 32.0462-32.0467, as follows:

Sec. 32.0462. PHARMACY BENEFIT MANAGER FOR VENDOR DRUG PROGRAM. (a) Defines “pharmacy benefit manager.”

(b) Requires the Health and Human Services Commission (HHSC) to contract with a pharmacy manager or other entity that has experience in the development of preferred drug lists or in negotiating supplemental rebates with pharmaceutical manufacturers to administer all of part of the vendor drug program.

Sec. 32.0463. SUPPLEMENTAL MEDICAL ASSISTANCE REBATES. (a) Defines “labeler,” “manufacturer,” and “wholesaler.”

(b) Requires HHSC to negotiate with manufacturers and labelers to obtain supplemental medical assistance rebates for prescription drugs sold in this state.

(c) Authorizes a manufacturer or labeler that sells prescription drugs in this state to voluntarily negotiate with HHSC and enter into an agreement to provide supplemental medical assistance rebates for prescription drugs provided under the vendor drug program in excess of the rebates required by 42 U.S.C. Section 1396r-8, as amended.

(d) Requires HHSC, in negotiating terms for a supplemental medical assistance rebate amount, to consider certain information.

Sec. 32.0464. CONFIDENTIALITY OF REBATES, PRICING, AND NEGOTIATIONS. Provides that information obtained or maintained by HHSC regarding supplemental medical assistance rebate negotiations or a supplemental medical assistance rebate agreement, including trade secrets, rebate amount, rebate percentage, and manufacturer or labeler pricing, is confidential and not subject to disclosure under Chapter 552, Government Code (Public Information).

Sec. 32.0465. PREFERRED DRUG LIST FOR VENDOR DRUG PROGRAM. (a) Requires HHSC to adopt a preferred drug list for the vendor drug program. Requires HHSC, in making a decision regarding the placement of a drug on the preferred drug list, to consider certain information.

(b) Requires HHSC to provide for distribution of current copies of the preferred drug list to all appropriate providers of medical assistance in this state.

(c) Requires HHSC to ensure certain actions and results. Defines “labeler” and “manufacturer.”

(d) Authorizes a recipient of drug benefits under the vendor drug program to use the Medicaid fair hearing process to appeal a preferred drug list decision made by HHSC.

Sec. 32.0466. PRIOR AUTHORIZATION UNDER THE VENDOR DRUG PROGRAM. (a) Requires HHSC, in its rules and standards governing the vendor drug program, to require prior authorization for the reimbursement of a drug that is not included in the preferred drug list adopted under Section 32.0465, except for antiretroviral drugs and any drug exempted from prior authorization requirements by federal law and except as provided by Subdivision (4). Requires HHSC to establish procedures for the prior authorization requirement to ensure certain actions and results.

(b) Authorizes the Medical Assistance Pharmaceutical and Therapeutics Committee (committee) to make recommendations for HHSC’s consideration regarding a prior authorization requirement for any drug covered by the vendor drug program.

Sec. 32.0467. MEDICAL ASSISTANCE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE. (a) Provides that the committee is established for the purposes of developing recommendations for a preferred drug list for the vendor drug program.

(b) Provides that the committee consists of certain members appointed by the governor.

(c) Requires the governor, in making appointments to the committee under Subsection (b), to ensure that the committee includes physicians or pharmacists participating in the medical assistance program who meet certain requirements.

(d) Provides that a member of the committee is appointed to a two-year term and is authorized to serve more than one term.

(e) Requires the committee to elect a presiding officer and an assistant presiding officer from its membership, and requires each officer to serve a one-year term.

(f) Requires the committee to meet at least quarterly at the call of the presiding officer.

(g) Prohibits a member of the committee from receiving compensation for serving on the committee but authorizes reimbursement for reasonable and necessary travel expenses incurred by the member while conducting the business of the committee, as provided by the General Appropriations Act.

(h) Requires the committee, in developing its recommendations for the preferred drug list, to consider the clinical efficacy, safety, and cost-effectiveness of a product.

(i) Requires HHSC to adopt rules governing the operation of the committee,

including rules governing the procedures used by the committee for providing notice of a meeting. Requires the committee to comply with the rules adopted under this subsection.

(j) Requires the committee, to the extent feasible, to review all drug classes included in the preferred drug list adopted under Section 32.0465 at least once every 12 months and authorizes the committee to recommend inclusions to and exclusions from the list to ensure that the list provides for cost-effective medically appropriate drug therapies for recipients of medical assistance.

(k) Requires the committee to conduct a closed meeting to consider or discuss the negotiations of a supplemental medical assistance rebate agreement under Section 32.0463 or any other information relating to supplemental medical assistance rebates, including trade secrets, rebate amount, rebate percentage, and manufacturer or labeler pricing.

(l) Requires HHSC to provide administrative support and resources as necessary for the committee to perform its duties under this section and Section 32.0466.

(m) Provides that Chapter 2110, Government Code (State Agency Advisory Committees), does not apply to the committee.

SECTION 2. Requires the state agency, if before implementing any provision of this Act a state agency determines that a waiver or other authorization from a federal agency is necessary for implementation, to request the waiver or authorization and authorizes a in delay implementing that provision until the waiver or authorization is granted.

SECTION 3. Requires the governor, not later than November 1, 2003, to appoint members to the Medical Assistance Pharmaceutical and Therapeutics Committee established under Section 32.0467, Human Resources Code, as added by this Act.

SECTION 4. Requires HHSC, not later than January 1, 2004, to implement Section 32.0463, Human Resources Code, as added by this Act.

SECTION 5. (a) Requires the committee established under Section 32.0467, Human Resources Code, as added by this Act, not later than January 1, 2004, to submit recommendations for the preferred drug list the committee is required to develop under that section to HHSC.

(b) Requires HHSC, not later than March 1, 2004, to adopt the preferred drug list as required by Section 32.0465, Human Resources Code, as added by this Act.

SECTION 6. Effective date: September 1, 2003.