

BILL ANALYSIS

Senate Research Center
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S.B. 1324
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The state, employers, and patients lose opportunities for choice and savings when community pharmacies are prevented from competing with mail-order pharmaceutical businesses.

Contracts offered by pharmacy benefit managers (PBMs) do not give a community pharmacy the chance to participate on the same terms as mail-order business, even though many pharmacies can meet expected mail-order savings. PBMs also skirt competition entirely and potentially raise prices by requiring or directing through co-pay provisions all plan enrollees to the mail-order business it owns and operates, and by allowing only short-term involvement by pharmacies in the community.

Purchasers of prescription benefit plans are often told mail order is less expensive than retail, but some studies have shown that mail order is more expensive. Mail-order savings estimates can be exaggerated through repackaging and other pricing schemes. Savings are even more illusory when costs are included that are associated with: excess supply (a patient gets a 90-day supply and only uses part of it), increased health problems due to delayed refill requests or shipments, and poor drug administration.

Additionally, mail order requirements hinder the provision of good health care when patients lose the convenience and assistance of their community pharmacist who is personally familiar with their medication needs. Printed information sent with mail-ordered drugs is not always read or understood by the patient. Patients with more than one doctor and who receive a portion of their drugs by mail order lose the oversight the community pharmacist can provide about overall drug interactions. The new Medicare Part D program prohibits drug benefit plans from requiring patients to use mail order.

As proposed, S.B. 1324 creates parity between community pharmacies and mail-order pharmacies, which would help give patients a choice of prescription drug care, improve patient health outcomes, and maximize savings in prescription drug benefit plans.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1369, Insurance Code, as effective April 1, 2005, by adding Subchapter E, as follows:

SUBCHAPTER E. DELIVERY OF PRESCRIPTION DRUGS BY MAIL

Sec. 1369.201. DEFINITIONS. Defines "mail order pharmacy."

Sec. 1369.202. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of

coverage or similar coverage document that is offered or administered by certain health benefit plan providers.

(b) Provides that, notwithstanding any other law, this subchapter applies to a standard health benefit plan issued under Chapter 1507 [sic] [Insurance Code does not contain Chapter 1507] or Article 3.80 (Texas Consumer Choice of Benefits Health Insurance Plan) or 20A.09N (Choice of Benefits Plan) offered or administered by an entity described by Subsection (a).

Sec. 1369.203. EXCEPTION. Sets forth certain health benefit plans to which this subchapter does not apply.

Sec. 1369.204. ACCESS TO PHARMACIES. (a) Sets forth prohibitions regarding an issuer of a health benefit plan that provides pharmacy benefits to enrollees, notwithstanding any other law.

(b) Requires an issuer of a health benefit plan that provides pharmacy benefits to enrollees to offer all pharmacies the same conditions and terms of participation in the health benefit plan, regardless of whether a pharmacy is a mail order pharmacy or a pharmacy located in the community in which the enrollee lives.

Sec. 1369.205. INJUNCTIVE RELIEF. Authorizes an enrollee, pharmacy, or pharmacist aggrieved by a violation or threatened violation of this subchapter to file a civil cause of action requesting injunctive relief to restrain an issuer of a health benefit plan from committing a violation or threatened violation of this subchapter.

SECTION 2. Amends Section 1551.219, Insurance Code, as added by Chapter 213, Acts of the 78th Legislature, Regular Session, 2003, to prohibit, rather than require, the board of trustees or health benefit plan from requiring that a participant who chooses to obtain a prescription drug through a retail pharmacy or other method other than by mail order to pay a deductible, copayment, coinsurance, or other cost-sharing obligation to cover the additional cost of obtaining a prescription drug through that method rather than by mail order.

SECTION 3. Makes application of this Act prospective to January 1, 2006.

SECTION 4. Effective date: September 1, 2005.