Sen. Andy Manar

Filed: 10/28/2019

AMENDMENT TO SENATE BILL 667

AMENDMENT NO. _____. Amend Senate Bill 667, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 5, immediately below line 9, by inserting the following:

"Section 11. The Department of Human Services (Mental Health and Developmental Disabilities) Law of the Civil Administrative Code of Illinois is amended by adding Section 1710-130 as follows:

(20 ILCS 1710/1710-130 new)

Sec. 1710-130. Insulin Assistance Program.

(a) As used in this Section:

"Eligible individual" means an individual who is a resident of Illinois and:

(1) has a family income that is equal to or less than 600% of the federal poverty level;

(2) has an out-of-pocket maximum of either $3,000 for prescriptions or has a high deductible health plan; and

(3) has not participated in the Program within the past 12 months.

"High deductible health plan" means a plan offered by a health insurance issuer with an out-of-pocket limit of $5,000 or more.

"Valid prescription" means a prescription issued by a physician licensed under the Medical Practice Act to practice medicine in all of its branches.

(b) The Secretary of Human Services shall implement the Insulin Assistance Program by July 1, 2021. Under the Program, the Secretary shall:

(1) reimburse a pharmacy for insulin products and related supplies that are dispensed by the pharmacy to an eligible individual pursuant to a valid prescription;

(2) maintain an up-to-date list of eligible individuals and make the list available to participating pharmacies in compliance with all State and federal privacy laws and rules;

(3) maintain an up-to-date list of participating pharmacies on the Department's website;

(4) accept statements of financial need from persons seeking eligibility for the Program; and

(5) seek participation in the Program by pharmacies in all areas of the State.

The Secretary may contract with a private entity or enter into an interagency agreement with another State agency to implement the Program.

(c) The Department shall develop and adopt rules for the application process of the Insulin Assistance Program. The Secretary shall develop an application form, and it shall be made available to participating pharmacies, health care providers, and other parties it deems necessary. An applicant must include his or her income and insurance status information with the application. At a minimum, the application form shall:

(1) state that the individual signing the form requires insulin products and related supplies to avoid serious health complications;

(2) state that the individual signing the form has attested to the physician or health professional issuing the prescription for insulin products and related supplies that the individual lacks the financial means to pay for these items and meets the requirements of an eligible individual for the Insulin Assistance Program; and

(3) provide the signature of both the individual and the physician or health care professional issuing the prescription for insulin products and related supplies.

To be considered for the Program, an individual must submit the completed application form to the Secretary and submit a paper or electronic copy of the form to a participating pharmacy when initially filling the prescription. Upon receipt

of a completed application, the Secretary shall determine eligibility in no more than 15 business days. Once an individual has been determined eligible, the individual shall be issued an Insulin Assistance Program identification card and entered into the system of eligible individuals. An Insulin Assistance Program identification card shall be valid for 90 days beginning on the date the form is approved. An individual may renew participation for an additional 90-day period no earlier than 12 months after being issued an Insulin Assistance Program identification card.

(d) Pharmacy participation in the program is voluntary. In order to participate, a pharmacy must register with the Secretary and agree to reimbursement and other contract terms the Secretary determines necessary. A pharmacy may withdraw from participation at any time by providing written notice to the Secretary. A pharmacy shall dispense insulin products and related supplies to eligible individuals who present a valid prescription and Insulin Assistance Program identification card. If an individual has not yet received an Insulin Assistance Program identification card, the individual may be verified from the list of eligible individuals maintained by the Secretary. Insulin products and related supplies shall be dispensed at no cost to eligible individuals. Eligibility for the Program is subject to the limits of available funding. Before dispensing insulin products and related supplies to an eligible individual, a pharmacy must provide the eligible

individual with information about any relevant drug manufacturer patient discount programs and contact information for GetCoveredIllinois.gov.

(e) Notwithstanding subsection (d), an individual with a completed and signed application form for the Program has presumptive eligibility for the Program. If an individual with presumptive eligibility does not have a valid prescription for insulin, a pharmacy shall dispense insulin in accordance with subsection (c) only if all conditions in Section 15.3 of the Pharmacy Practice Act are met.

Section 12. The State Finance Act is amended by adding Section 5.930 as follows:

(30 ILCS 105/5.930 new)

Sec. 5.930. Insulin Assistance Account Fund."; and

on page 14, line 4, after "diabetes", by inserting "but does not include an insulin drug that is administered to a patient intravenously"; and

on page 22, immediately below line 12, by inserting the following:

"Section 50. The Pharmacy Practice Act is amended by changing Section 10 and by adding Section 10.5 as follows:

(225 ILCS 85/10) (from Ch. 111, par. 4130)

(Section scheduled to be repealed on January 1, 2020)

Sec. 10. State Board of Pharmacy.

(a) There is created in the Department the State Board of Pharmacy. It shall consist of 9 members, 7 of whom shall be licensed pharmacists. Each of those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college of pharmacy or hold a Bachelor of Science degree in Pharmacy and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure as a licensed pharmacist in the State of Illinois. There shall be 2 public members, who shall be voting members, who shall not be engaged in any way, directly or indirectly, as providers of health care in this State or any other state.

(b) Each member shall be appointed by the Governor.

(c) Members shall be appointed to 5 year terms. The Governor shall fill any vacancy for the remainder of the unexpired term. Partial terms over 3 years in length shall be considered full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms in his or her lifetime.

(d) In making the appointment of members on the Board, the Governor shall give due consideration to recommendations by the members of the profession of pharmacy and by pharmacy

organizations therein. The Governor shall notify the pharmacy organizations promptly of any vacancy of members on the Board and in appointing members shall give consideration to individuals engaged in all types and settings of pharmacy practice.

(e) The Governor may remove any member of the Board for misconduct, incapacity, or neglect of duty, and he or she shall be the sole judge of the sufficiency of the cause for removal.

(f) Each member of the Board shall be reimbursed for such actual and legitimate expenses as he or she may incur in going to and from the place of meeting and remaining there during sessions of the Board.

(g) The Board shall hold quarterly meetings at such times and places and upon notice as the Department may determine and as its business may require. A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(h) The Board shall exercise the rights, powers and duties which have been vested in the Board under this Act, and any other duties conferred upon the Board by law.

(i) The Board shall publish on its website regularly updated information about:

(1) pharmaceutical manufacturers' patient assistance programs;

(2) the Illinois' prescription assistance program Illinois Rx Card;

(3) the Insulin Assistance Program;

(4) websites through which individuals can access information concerning eligibility for and enrollment in Medicare, Medicaid, Get Covered Illinois, and other government-funded programs that help defray the costs of prescriptions;

(5) the program established under Section 340b of the federal Public Health Service Act, 42 U.S.C. 256b; and

(6) any other resource that the Board deems useful to consumers attempting to purchase prescription drugs at lower costs.

The Board shall prepare educational documents and materials, including brochures and posters, based on the information it provides on its website under this subsection (i). The documents and materials shall be in a form that can be downloaded from the Board's website and used for patient education by pharmacists and by practitioners who are licensed to prescribe. The Board is not required to provide printed copies of these documents and materials.

Annually, the Board shall encourage licensed pharmacists and pharmacies to make available to patients information on sources of lower cost prescription drugs and shall provide these licensees with the address for the website under this subsection (i).

(Source: P.A. 100-497, eff. 9-8-17.)

(225 ILCS 85/10.5 new)

Sec. 10.5. Insulin product fee.

(a) As used in this Section:

"Manufacturer" means a manufacturer engaged in the manufacturing of insulin.

"Qualified insulin product" means any prescription product containing insulin for which the Board determines the wholesale acquisition cost of the drug, or other relevant measure of drug cost, exceeds the national average for comparable prescription products containing insulin.

"Wholesaler" means a wholesale drug distributor licensed under the Wholesale Drug Distribution Licensing Act and engaged in the wholesale drug distribution of insulin.

(b) A manufacturer that holds a U.S. Food and Drug Administration approved New Drug Application, or approved Abbreviated New Drug Application, for any qualified insulin product and a wholesaler shall pay to the Board an insulin product fee pursuant to this Section.

(c) On or before March 1, 2021, and every March 1 thereafter, a pharmaceutical manufacturer and a wholesaler shall provide the Board with data about each of its prescription products that contain insulin that are sold, delivered, or distributed within or into the State to any practitioner, pharmacy, or hospital. The data shall include,

for each product, the trade and generic names, strength, package size, and National Drug Code. Reporting shall be in a manner and format specified by the Board and shall occur by the 15th day of each calendar month, for sales, deliveries, and other distributions that occurred during the previous calendar month, except that the first report submitted to the Board shall include data retroactive to July 1, 2020. Each manufacturer and each wholesaler required to report this data shall also report a billing address to which the Board may send invoices and inquiries related to the insulin product fee. The manufacturer and wholesaler shall notify the Board of any changes to this data no later than 30 days after the change is made. The Board may require a manufacturer or wholesaler to confirm the accuracy of the data on a quarterly basis. If a manufacturer or wholesaler fails to provide information required under this subsection (c) on a timely basis, the Board may assess an administrative penalty of $100 per day. This penalty shall not be considered a form of disciplinary action.

(d) Beginning April 1, 2021 and on a quarterly basis thereafter, the Board shall use the data submitted under subsection (c) to identify qualified insulin products and prepare invoices for each manufacturer and wholesaler that is required to pay an insulin product fee for a qualified insulin product, as required by this Section. The invoices for each quarter shall be prepared and sent to manufacturers and wholesalers no later than 30 days after the end of each

quarter, except that the first invoice prepared by the Board shall be for the first 3 quarters of fiscal year 2020. Manufacturers and wholesalers shall remit payment to the Board no later than 30 days after the date of the invoice. If a manufacturer or wholesaler fails to remit payment by that date, the Board shall charge interest at the rate that manufacturers and wholesalers are charged interest for making late Medicaid rebate payments.

(e) A manufacturer or wholesaler may dispute the amount invoiced by the Board no later than 30 days after the date of the invoice. However, the manufacturer or wholesaler must still remit payment for the amount invoiced as required by this Section. The dispute shall be filed with the Board in the manner and using the forms specified by the Board. A manufacturer or wholesaler must submit, with the required forms, data satisfactory to the Board that demonstrates that the original amount invoiced was incorrect. The Board shall make a decision concerning a dispute no later than 60 days after receiving the required forms. If the Board determines that the manufacturer or wholesaler has satisfactorily demonstrated the original fee invoiced by the Board was incorrect, the Board shall reimburse the manufacturer or wholesaler for any amount that is in excess of the correct amount that should have been invoiced. The Board shall make this reimbursement when it notifies the manufacturer or wholesaler of its decision.

(f) The Board shall calculate the fee that is to be paid by each manufacturer and wholesaler by using a base rate for all qualified insulin products, as defined by the Board, distributed or dispensed in Illinois. The Board shall annually assess manufacturers and wholesalers a fee that in the aggregate equals the total cost of the Insulin Assistance Program for the previous fiscal year, including any State appropriation to the Secretary of Human Services for the Program and any administrative costs incurred by the Secretary of Human Services or the Board in collecting the fees, plus any outstanding liabilities of the Program. The Board shall determine for each manufacturer or wholesaler a prorated annual fee that is based on the manufacturer's or wholesaler's percentage of the total number of units reported to the Board under subsection (c). For the initial fee, the Secretary shall estimate the cost of the Program for the first fiscal year and notify the Board of the estimated cost 6 months after the effective date of this amendatory Act of the 101st General Assembly. The Board shall determine each manufacturer's and wholesaler's initial fee based on the estimated cost.

(g) There is created within the State treasury a special fund called the Insulin Assistance Account Fund in which the Board shall deposit all fees collected under this Section. Beginning with fiscal year 2021, money in the Insulin Assistance Account Fund shall be appropriated to the Secretary of Human Services to fund the Insulin Assistance Program under

Section 1710-130 of the Department of Human Services (Mental Health and Developmental Disabilities) Law of the Civil Administrative Code of Illinois.

Section 55. The Wholesale Drug Distribution Licensing Act is amended by changing Section 30 as follows:

(225 ILCS 120/30) (from Ch. 111, par. 8301-30)

(Section scheduled to be repealed on January 1, 2023)

Sec. 30. License renewal application procedures.

(a) Application for renewal of any license required by this Act shall be mailed or emailed to each licensee at least 60 days before the license expires. If the application for renewal with the required fee is not received by the Department before the expiration date, the existing license shall lapse and become null and void. Failure to renew before the expiration date is cause for a late payment penalty, discipline, or both.

(b) The Department may not renew a license of a wholesale distributor unless the wholesale distributor pays the insulin product fee required under Section 10.5 of the Pharmacy Practice Act.

(Source: P.A. 101-420, eff. 8-16-19.)".