

SUBJECT: Requiring certain payments to count towards cost-sharing requirements

COMMITTEE: Health Care Reform, Select — committee substitute recommended

VOTE: 7 ayes — Harless, Howard, Bonnen, Frank, Klick, Price, Walle

0 nays

4 absent — Bucy, E. Morales, Oliverson, Rose

WITNESSES: For — Chase Bearden, J Canciglia, Coalition of Texans with Disabilities; JP Summers, Global Healthy Living Foundation; Kindyl Boyer, Infusion Access Foundation; Rachel Neyland, Shelley Clawson, Melissa Compton, Ryan Crowe, Julie Fredericksen Jones, Texas Bleeding Disorders Coalition; Ezequiel Silva, Texas Medical Association, Texas Radiological Association (*Registered, but did not testify*: James Gray, American Cancer Society Cancer Action Network; Joel Romo, American Diabetes Association; Anne Dunkelberg, Every Texan; Lindsay Lanagan, Legacy Community Health; Greg Hansch, National Alliance on Mental Illness TX; Shannon Meroney, National Association of Benefits & Insurance Professionals, formerly TAHU; Bonnie Bruce, Prism Health North Texas; Jessica Schleifer, Teaching Hospitals of Texas; Mia McCord, Texans for Affordable Health Care/American Coalition for Affordable Health Care; Shelby Tracy, Texas Association of Community Health Centers; David Reynolds, Texas Chapter American College of Physicians Services; Linda Litzinger, Texas Parent to Parent; Clayton Travis, Texas Pediatric Society; Duane Galligher, Texas Pharmacy Association; Gregg Knaupe, Texas Pharmacy Business Council; David Balat, Texas Public Policy Foundation; Kwame Walker, Texas Rare Alliance; Tiffany Patterson, United Ways of Texas)

Against — None

On — Jamie Dudensing, Texas Association of Health Plans (*Registered, but did not testify*: Kenisha Schuster, Texas Department of Insurance)

DIGEST:

CSHB 999 would require health benefit plan issuers or pharmacy benefit managers to apply to the enrollee's deductible, copayment, cost-sharing responsibility, or out-of-pocket maximum any third-party payment, financial assistance, discount, product voucher, or other reduction in out-of-pocket expenses for a prescription drug that the health benefit plan covered.

The bill would apply only to a reduction in out-of-pocket expenses made by or on behalf of an enrollee for a covered prescription drug for which:

- a generic equivalent did not exist;
- an interchangeable biological product did not exist; or
- a generic equivalent or interchangeable biological product did exist, but the enrollee had obtained access to the prescription drug under the health benefit plan using a prior authorization process, a step therapy protocol, or the health benefit plan issuer's exceptions and appeals process.

The bill would take effect September 1, 2023, and would apply only to health benefit plans delivered, issued for delivery, or renewed after January 1, 2024.

SUPPORTERS
SAY:

CSHB 999 would help to reduce health care costs for patients with no other options for prescription drugs by requiring health plans to count certain third-party payments towards a patient's cost-sharing responsibility. Many patients use third party financial assistance to help offset out-of-pocket costs for expensive prescriptions. Some health insurance plans have copay accumulator programs, which do not allow these third-party payments to count towards a patient's deductibles and out-of-pocket maximums. Patients often do not know that third-party assistance does not count towards their cost-sharing requirements and do not meet their deductibles or out-of-pocket maximums as soon as they expect, which can lead to a surprise bill. CSHB 999 would help patients reach their deductibles sooner and reduce their out-of-pocket costs.

The bill would apply to payments made for prescription drugs for which

there is no generic equivalent or interchangeable biological product. Prescription drugs with no alternatives are often expensive and used to treat chronic conditions, and when these prescriptions are unaffordable, patients often ration doses or skip their prescriptions entirely, which can lead to hospitalization and disease progression. By making these life-saving prescription drugs more affordable, CSHB 999 would improve health outcomes for patients. Because the bill would apply to drugs with no alternatives, it would not increase costs for health plans. If premiums did become too expensive, patients likely would choose a health plan that they could afford.

**CRITICS
SAY:**

CSHB 999 could increase premiums for enrollees and employers if health insurance plans passed costs on to consumers.