SB0069S05 compared with SB0069S02

~~{Omitted text}~~ shows text that was in SB0069S02 but was omitted in SB0069S05
inserted text shows text that was not in SB0069S02 but was inserted into SB0069S05

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Medication Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor:Steve Eliason

LONG TITLE

General Description:

This bill addresses {~~participation in a~~ } the federal drug discount program.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a pharmaceutical manufacturer from {~~restricting, prohibiting, or otherwise interfering with a 340B entity's ability to:~~} certain conduct relative to the 340B drug discount program;
  - {~~**acquire a 340B drug; or**~~}
  - {~~**participate in the 340B drug discount program;**~~}
- {~~permits~~ } allows the Public Employees' Benefit and Insurance Program to adjust its business practices to mitigate any resulting financial impacts; {~~and~~}
- {~~**requires the commissioner of insurance to designate a third party entity to:**~~}
  - {~~receive~~ } allows a manufacturer to request certain {~~deidentified~~ } claim information{~~;~~} from 340B entities; and
  - {~~**confirm whether a 340B entity participates in the drug discount program; and**~~}

SB0069S02

- {~~report the claim~~ } requires 340B entities to submit information to {~~a pharmaceutical manufacturer~~} the Insurance Department.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

ENACTS:

31A-46-311 , Utah Code Annotated 1953 , Utah Code Annotated 1953

31A-46-312 , Utah Code Annotated 1953 , Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **1** is enacted to read:

31A-46-311. Prohibited actions with respect to the 340B drug discount program.

(1) As used in this {~~section,"manufacturer~~} section, "manufacturer" means a pharmaceutical manufacturer, including an agent or affiliate of a pharmaceutical manufacturer.

(2) A manufacturer may not:

(a) directly or indirectly restrict or prohibit:

(i) a pharmacy from contracting with a 340B entity, including by denying the pharmacy access to a drug that is manufactured by the manufacturer;

(ii) a 340B entity from contracting with a pharmacy, including by denying the 340B entity access to a drug that is manufactured by the manufacturer;

(iii) the acquisition, dispensing, or delivery of a 340B drug to any location authorized by a 340B entity to receive the drug, unless prohibited by federal law; or

(iv) a 340B entity from receiving 340B drug discount program pricing for a 340B drug, including by imposing a time limitation on a 340B entity to replenish or submit a claim for a 340B drug;or

{~~(b) {directly or indirectly:}~~ }

{~~(i) {require a 340B entity to purchase a 340B drug from a supplier if the manufacturer would otherwise permit the 340B entity to purchase a drug that is not a 340B drug from the supplier; or}~~ }

{~~(ii) {require a 340B entity to submit any claim data, utilization data, or information about a 340B entity's contracts with a third-party as a condition for allowing the acquisition of a 340B drug by,~~

~~or delivery of a 340B drug to, a 340B entity, unless the data or information sharing is required by federal law; or}~~ }

{~~(c)~~} (b) interfere with:

(i) a contract between a pharmacy and a 340B entity; or

(ii) the ability of a pharmacy and a 340B entity to enter into a contract.

(3) The Public Employees' Benefit and Insurance Program created in Section 49-20-103 may adjust the program's business practices to mitigate any financial impacts resulting from this section.

(4) Nothing in this section {~~is to~~ } shall be construed to conflict with federal law.

Section 2. Section **2** is enacted to read:

31A-46-312. {~~Designated entity --~~ } Claim information sharing and use -- 340B entity public reporting.

(1) As used in this section:

{~~(a) {"Board of pharmacy" means the Utah State Board of Pharmacy created in Section 58-17B-201.}~~ }

(a) "Bad debt" means the amount of money charged by a 340B entity for providing health care services to a patient for which the 340B entity does not receive payment.

(b) "Claim information" means information that is:

(i) described in Subsection (2); and

{~~(b)~~} (ii) {~~"Claim information" means information~~ } related to a claim for a 340B drug that is:

{~~(i)~~} (A) dispensed by a contract pharmacy; and

{~~(ii)~~} (B) manufactured by a single pharmaceutical manufacturer.

(c) "Contract pharmacy" means a pharmacy contracting with an entity participating in the 340B drug discount program to dispense drugs purchased through the 340B drug discount program.

{~~(d) {"Designated entity" means a third party entity that is designated as described in Subsection (2).}~~ }

{~~(e)~~} (d) {~~"Participating 340B entity~~} "Financial assistance" means the amount of money a 340B entity {~~that is~~ } does not receive as a {~~hospital described in 42 U.S.C. Sec. 256b(a)(4)(L)~~} result of providing health care services to a patient at a reduced cost or no cost.

{~~(2)~~ }

{~~(a) {The commissioner, in collaboration with the board of pharmacy, shall designate one third party entity to receive claim information as described in Subsection (3).}~~ }

{~~(b) {In making the designation described in Subsection (2)(a), the commissioner shall ensure that the third party entity:}~~ }

{~~(i)~~ {~~is capable of carrying out the requirements of this section;}~~ }

{~~(ii)~~ }

{~~(A)~~ {~~is not owned or controlled by a pharmaceutical manufacturer; and}~~ }

{~~(B)~~ {~~does not otherwise have a contractual or other relationship with a pharmaceutical manufacturer that would create a conflict of interest; and}~~ }

{~~(iii)~~ {~~in carrying out the provisions of this section, will use:}~~ }

{~~(A)~~ {~~technology that complies with privacy and security requirements under state and federal law; and}~~ }

{~~(B)~~ {~~reasonable and necessary terms.}~~ }

{~~(c)~~ {~~If the commissioner is unable to designate a third party entity that meets the requirements of Subsection (2)(b), a participating 340B entity is not required to post as described in Subsection (6).}~~ }

{~~(3)~~ {~~A participating 340B entity shall:}~~ }

(e) "Uncompensated care" means the sum of a 340B entity's bad debt and financial assistance.

{~~(a)~~} (2) {~~provide to the designated~~ } A pharmaceutical manufacturer may request from a 340B entity the following claim information:

{~~(i)~~} (a) prescription number;

{~~(ii)~~} (b) prescribed date;

{~~(iii)~~} (c) fill date;

{~~(iv)~~} (d) national drug code;

{~~(v)~~} (e) quantity;

{~~(vi)~~} (f) pharmacy identification; {~~and~~}

(g) prescriber identification number; and

{~~(vii)~~} (h) 340B covered entity identification{~~;~~} .

{~~(b)~~ {~~ensure the claim information provided is deidentified in accordance with federal law; and}~~ }

{~~(c)~~ {~~provide the claim information in accordance with the rules described in Subsection (7).}~~ }

{~~(4)~~ {~~Upon request, the designated entity:}~~ }

{~~(a)~~ {~~shall inform a pharmaceutical manufacturer whether a 340B entity is a participating 340B entity that provides claim information for any 340B drug; and}~~ }

{~~(b)~~} (3) {~~may provide to~~ } A 340B entity that receives a request from a pharmaceutical manufacturer {~~claim information for a 340B drug manufactured by~~ } as described in Subsection (2) shall provide

to the pharmaceutical manufacturer {~~that~~ } the {~~designated entity received under Subsection (3)~~} requested claim information.

{~~(5)~~ }

{~~(a)~~} (4) {~~The designated entity or a~~ } A pharmaceutical manufacturer may only use claim information received under this section to identify a rebate for an insurer or a third party administrator that is ineligible for payment under the pharmaceutical {~~manufacturers~~ } manufacturer's policy.

{~~(b) {The designated entity or a pharmaceutical manufacturer may not use claim information received under this section to:}~~ }

{~~(i) {establish restrictions or limitations on a participating 340B entity's ability to purchase a 340B drug, including by establishing:}~~ }

{~~(A) {allocations on purchasing based on the number of claims for which the participating 340B entity provides claim information; or}~~ }

{~~(B) {time limits for a participating 340B entity to replenish or replace inventory of a 340B drug;}~~ }

{~~(ii) {recoup from a participating 340B entity a discount for a 340B drug;}~~ }

{~~(iii) {discriminate against, lower the reimbursement for, or impose any separate condition on a participating 340B entity; or}~~ }

{~~(iv) {take any other action that is not expressly authorized under this part.}~~ }

(5)

{~~(6)~~} (a) {~~A participating~~ } Beginning on July 1, 2026, a 340B entity shall {~~post on~~ } annually provide, on or before the {~~participating~~ } first day of the month after the 340B entity files the 340B entity's {~~publicly available website~~} Medicare cost report, the following to the department in a form and manner determined by the department:

{~~(a)~~} (i) the name of the {~~participating~~ } 340B entity;

{~~(b)~~} (ii) a copy of the {~~participating~~ } 340B entity's annual 340B program recertification;

{~~(c)~~} (iii) if the {~~participating~~ } 340B entity is required to conduct a community health needs assessment under Section 501(r)(3)(A), Internal Revenue Code, a copy of the {~~participating~~ } 340B entity's most recent community health needs assessment;

{~~(d)~~} (iv) a statement that the {~~participating~~ } 340B entity is in compliance with the 340B drug discount program; {~~and~~}

(v) the total number of contract pharmacies with which the 340B entity contracts;

(vi) the total number of contract pharmacies located out-of-state and the states in which out-of-state contract pharmacies are located; and

(vii) for the prior year:

{~~(e)~~} (A) a description of the impact of the 340B drug discount program on the patients and community served by the {~~participating~~ } 340B entity{~~.~~} ;

{~~(7) {In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner, in collaboration with the board of pharmacy, shall make rules that establish the frequency in which a participating 340B entity shall provide claim information to the designated entity.}~~ }

(B) the total operating costs of the 340B entity;

(C) the total uncompensated care provided by the 340B entity; and

(D) the total number of prescriptions and the percentage of the 340B entity's prescriptions filled at contract pharmacies.

(b) An officer of the 340B entity shall certify the completeness and accuracy of the information submitted in accordance with Subsection (5)(a).

(c)

(i) The department shall prepare a report of aggregated information provided by 340B entities under Subsection (5)(a).

(ii) The department shall submit the report described in Subsection (5)(c)(i) to the Health and Human Services Interim Committee on or before July 1, 2027.

(iii) The department shall post the report described in Subsection (5)(c)(ii) on a publicly accessible website.

(6) Nothing in this section shall be construed to conflict with federal law.

Section 3. **Effective date.**

Effective Date.

This bill takes effect on May 7, 2025.

3-4-25 11:10 AM