

As Introduced

136th General Assembly

Regular Session

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H. B. No. 448

Representatives Baker, Barhorst

To enact section 3902.65 of the Revised Code to
apply prescription drug rebates to cost-sharing
requirements.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3902.65 of the Revised Code be
enacted to read as follows:

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Sec. 3902.65. (A) For the purposes of this section:

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(1) "Health plan issuer" has the same meaning as in
section 3902.50 of the Revised Code, except it excludes the
public employee benefit plan covering state employees who are
paid directly by warrant of the director of budget and
management, including elected state officials.

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(2) "Price protection rebate" means a negotiated price
concession that accrues directly or indirectly to a health plan
issuer, or other party on behalf of the health plan issuer, in
the event of an increase in the wholesale acquisition cost of a
drug above a specified threshold.

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(3) "Rebate" includes both of the following:

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(a) Negotiated price concessions, including base price
concessions, whether described as a rebate or otherwise, and

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reasonable estimates of any price protection rebates and 20
performance-based price concessions that may accrue directly or 21
indirectly to the health plan issuer during the coverage year 22
from a manufacturer, dispensing pharmacy, or other party in 23
connection with the dispensing or administration of a 24
prescription drug; 25

(b) Reasonable estimates of any negotiated price 26
concessions, fees, and other administrative costs that are 27
passed through, or are reasonably anticipated to be passed 28
through, to the health plan issuer and serve to reduce the 29
health plan issuer's liability for a prescription drug. 30

(B) A health plan issuer shall calculate a covered 31
person's cost sharing for a prescription drug at the point of 32
sale based on a price that is reduced by one hundred per cent of 33
all rebates received, or to be received, in connection with the 34
dispensing or administration of the prescription drug. 35

(C) Nothing in this section prohibits a health plan issuer 36
from decreasing a covered person's cost-sharing amount for a 37
prescription drug by more than the amount required by division 38
(A) of this section. 39

(D) In implementing the requirements of this section, the 40
superintendent of insurance shall only regulate a health plan 41
issuer to the extent permissible under applicable law. 42

(E) (1) In complying with the provisions of this section, a 43
health plan issuer, or its agent, shall not publish or otherwise 44
reveal information regarding the actual amount of rebates a 45
health plan issuer receives on a product or therapeutic class of 46
products, manufacturer, or pharmacy-specific basis. 47

(2) Documents and other evidence described in division (E) 48

(1) of this section are confidential, not public records for the 49
purposes of section 149.43 of the Revised Code, and shall not be 50
released directly or indirectly, or in a manner that would allow 51
for the identification of an individual product, therapeutic 52
class of products, manufacturer, or pharmacy, or in a manner 53
that would have the potential to compromise the financial, 54
competitive, or proprietary nature of the information. 55

(3) A health plan issuer shall impose the confidentiality 56
protections and requirements of this section on any agent or 57
other third party that performs health care or administrative 58
services on behalf of the health plan issuer that may receive or 59
have access to rebate information. 60

(F) Whoever violates this section is engaged in an unfair 61
and deceptive insurance act or practice under sections 3901.19 62
to 3901.26 of the Revised Code, and is subject to proceedings 63
pursuant to those sections. 64