

1 AN ACT

2 relating to the Medicaid Drug Utilization Review Program and
3 prescription drug use under the Medicaid program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 531, Government Code, is
6 amended by adding Sections 531.0691, 531.0692, 531.0693, and
7 531.0694 to read as follows:

8 Sec. 531.0691. MEDICAID DRUG UTILIZATION REVIEW PROGRAM:
9 DRUG USE REVIEWS AND ANNUAL REPORT. (a) In this section:

10 (1) "Medicaid Drug Utilization Review Program" means
11 the program operated by the vendor drug program to improve the
12 quality of pharmaceutical care under the Medicaid program.

13 (2) "Prospective drug use review" means the review of
14 a patient's drug therapy and prescription drug order or medication
15 order before dispensing or distributing a drug to the patient.

16 (3) "Retrospective drug use review" means the review
17 of prescription drug claims data to identify patterns of
18 prescribing.

19 (b) The commission shall provide for an increase in the
20 number and types of retrospective drug use reviews performed each
21 year under the Medicaid Drug Utilization Review Program, in
22 comparison to the number and types of reviews performed in the state
23 fiscal year ending August 31, 2009.

24 (c) In determining the number and types of drug use reviews

1 to be performed, the commission shall:

2 (1) allow for the repeat of retrospective drug use
3 reviews that address ongoing drug therapy problems and that, in
4 previous years, improved client outcomes and reduced Medicaid
5 spending;

6 (2) consider implementing disease-specific
7 retrospective drug use reviews that address ongoing drug therapy
8 problems in this state and that reduced Medicaid prescription drug
9 use expenditures in other states; and

10 (3) regularly examine Medicaid prescription drug
11 claims data to identify occurrences of potential drug therapy
12 problems that may be addressed by repeating successful
13 retrospective drug use reviews performed in this state and other
14 states.

15 (d) In addition to any other information required by federal
16 law, the commission shall include the following information in the
17 annual report regarding the Medicaid Drug Utilization Review
18 Program:

19 (1) a detailed description of the program's
20 activities; and

21 (2) estimates of cost savings anticipated to result
22 from the program's performance of prospective and retrospective
23 drug use reviews.

24 (e) The cost-saving estimates for prospective drug use
25 reviews under Subsection (d) must include savings attributed to
26 drug use reviews performed through the vendor drug program's
27 electronic claims processing system and clinical edits screened

1 through the prior authorization system implemented under Section
2 531.073.

3 (f) The commission shall post the annual report regarding
4 the Medicaid Drug Utilization Review Program on the commission's
5 website.

6 Sec. 531.0692. MEDICAID DRUG UTILIZATION REVIEW BOARD:
7 CONFLICTS OF INTEREST. (a) A member of the board of the Medicaid
8 Drug Utilization Review Program may not have a contractual
9 relationship, ownership interest, or other conflict of interest
10 with a pharmaceutical manufacturer or labeler or with an entity
11 engaged by the commission to assist in the administration of the
12 Medicaid Drug Utilization Review Program.

13 (b) The executive commissioner may implement this section
14 by adopting rules that identify prohibited relationships and
15 conflicts or requiring the board to develop a conflict-of-interest
16 policy that applies to the board.

17 Sec. 531.0693. PRESCRIPTION DRUG USE AND EXPENDITURE
18 PATTERNS. (a) The commission shall monitor and analyze
19 prescription drug use and expenditure patterns in the Medicaid
20 program. The commission shall identify the therapeutic
21 prescription drug classes and individual prescription drugs that
22 are most often prescribed to patients or that represent the
23 greatest expenditures.

24 (b) The commission shall post the data determined by the
25 commission under Subsection (a) on the commission's website and
26 update the information on a quarterly basis.

27 Sec. 531.0694. PERIOD OF VALIDITY FOR PRESCRIPTION. In its

1 rules and standards governing the vendor drug program, the
2 commission, to the extent allowed by federal law and laws
3 regulating the writing and dispensing of prescription medications,
4 shall ensure that a prescription written by an authorized health
5 care provider under the Medicaid program is valid for the lesser of
6 the period for which the prescription is written or one year. This
7 section does not apply to a prescription for a controlled
8 substance, as defined by Chapter 481, Health and Safety Code.

9 SECTION 2. Section 531.071, Government Code, is amended by
10 amending Subsection (c) and adding Subsection (d) to read as
11 follows:

12 (c) General information about the aggregate costs of
13 different classes of drugs is not confidential under Subsection
14 (a), except that a drug name or information that could reveal a drug
15 name is confidential.

16 (d) Information about whether the commission and a
17 manufacturer or labeler reached or did not reach a supplemental
18 rebate agreement under Section 531.070 for a particular drug is not
19 confidential under Subsection (a).

20 SECTION 3. Section 531.072, Government Code, is amended by
21 adding Subsections (b-1), (b-2), and (c-1) to read as follows:

22 (b-1) Notwithstanding Subsection (b), the preferred drug
23 lists may contain:

24 (1) a drug provided by a manufacturer or labeler that
25 has not reached a supplemental rebate agreement with the commission
26 if the commission determines that inclusion of the drug on the
27 preferred drug lists will have no negative cost impact to the state;

1 or

2 (2) a drug provided by a manufacturer or labeler that
3 has reached an agreement with the commission to provide program
4 benefits in lieu of supplemental rebates, as described by Section
5 531.070.

6 (b-2) Consideration must be given to including all
7 strengths and dosage forms of a drug on the preferred drug lists.

8 (c-1) In addition to the considerations listed under
9 Subsection (c), the commission shall consider the inclusion of
10 multiple methods of delivery within each drug class, including
11 liquid, tablet, capsule, and orally disintegrating tablets.

12 SECTION 4. Section 531.073, Government Code, is amended by
13 adding Subsections (g), (h), and (i) to read as follows:

14 (g) The commission shall ensure that requests for prior
15 authorization may be submitted by telephone, facsimile, or
16 electronic communications through the Internet.

17 (h) The commission shall provide an automated process that
18 may be used to assess a Medicaid recipient's medical and drug claim
19 history to determine whether the recipient's medical condition
20 satisfies the applicable criteria for dispensing a drug without an
21 additional prior authorization request.

22 (i) The commission shall study the costs and benefits of the
23 prior authorization process and methods to improve efficiency.

24 SECTION 5. Section 531.074, Government Code, is amended by
25 amending Subsections (i) and (m) and adding Subsections (f-1) and
26 (i-1) to read as follows:

27 (f-1) The committee shall meet in public and shall permit

1 public comment before voting on any changes in the preferred drug
2 lists. Minutes of each meeting shall be made available to the
3 public not later than the 10th business day after the date the
4 minutes are approved. The committee may meet in executive session
5 to discuss confidential information as described by Subsection (i).

6 (i) The commission shall adopt rules governing the
7 operation of the committee, including rules governing the
8 procedures used by the committee for providing notice of a meeting
9 and rules prohibiting the committee from discussing confidential
10 information described by Section 531.071 in a public meeting. The
11 committee shall comply with the rules adopted under this subsection
12 and Subsection (i-1).

13 (i-1) In addition to the rules under Subsection (i), the
14 commission by rule shall require the committee or the committee's
15 designee to present a summary of any clinical efficacy and safety
16 information or analyses regarding a drug under consideration for a
17 preferred drug list that is provided to the committee by a private
18 entity that has contracted with the commission to provide the
19 information. The committee or the committee's designee shall
20 provide the summary in electronic form before the public meeting at
21 which consideration of the drug occurs. Confidential information
22 described by Section 531.071 must be omitted from the summary. The
23 summary must be posted on the commission's Internet website.

24 (m) The commission or the commission's agent shall publicly
25 disclose, immediately after the committee deliberations conclude,
26 each specific drug recommended for or against preferred drug list
27 status for each drug class included in the preferred drug list for

1 the Medicaid vendor drug program. The disclosure must be posted on
2 the commission's Internet website not later than the 10th business
3 day [~~made in writing~~] after the conclusion of committee
4 deliberations that result in recommendations made to the executive
5 commissioner regarding the placement of drugs on the preferred drug
6 list. The public disclosure must include:

7 (1) the general basis for the recommendation for each
8 drug class; and

9 (2) for each recommendation, whether a supplemental
10 rebate agreement or a program benefit agreement was reached under
11 Section 531.070.

12 SECTION 6. Subchapter B, Chapter 531, Government Code, is
13 amended by adding Section 531.0741 to read as follows:

14 Sec. 531.0741. PUBLICATION OF INFORMATION REGARDING
15 COMMISSION DECISIONS ON PREFERRED DRUG LIST PLACEMENT. The
16 commission shall publish on the commission's Internet website any
17 decisions on preferred drug list placement, including:

18 (1) a list of drugs reviewed and the commission's
19 decision for or against placement on a preferred drug list of each
20 drug reviewed;

21 (2) for each recommendation, whether a supplemental
22 rebate agreement or a program benefit agreement was reached under
23 Section 531.070; and

24 (3) the rationale for any departure from a
25 recommendation of the pharmaceutical and therapeutics committee
26 established under Section 531.074.

27 SECTION 7. Not later than December 1, 2010, the executive

1 commissioner of the Health and Human Services Commission shall
2 implement Sections 531.073(g), (h), and (i), Government Code, as
3 added by this Act.

4 SECTION 8. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

10 SECTION 9. This Act takes effect September 1, 2009.

David Newkumst

President of the Senate

John Strawn

Speaker of the House

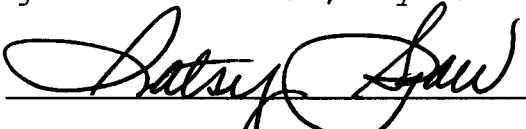
I certify that H.B. No. 2030 was passed by the House on April 8, 2009, by the following vote: Yeas 146, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2030 on May 18, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2030 on May 27, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Robert Haney

Chief Clerk of the House

H.B. No. 2030

I certify that H.B. No. 2030 was passed by the Senate, with amendments, on May 12, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2030 on May 30, 2009, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 19 JUN 09

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK

JUN 19 2009

