**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑295 SO AS TO REQUIRE AN INSURER TO CERTIFY THAT IT REDUCED THE LEVEL OF COST SHARING BY AN AMOUNT EQUAL TO AT LEAST A MAJORITY OF THE REBATES RECEIVED BY THE INSURER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑295. (A) For purposes of this section:

(1) ‘Cost sharing’ means a deductible payment, copayment, or coinsurance amount imposed on an enrollee for a covered prescription drug in accordance with the terms and conditions of the enrollee’s health plan.

(2) ‘Insurer’ means an insurance company, a health maintenance organization, and any other entity providing health insurance coverage which is licensed to engage in the business of insurance in this State and is subject to state insurance regulation.

(3) ‘Health maintenance organization’ means an organization as defined in Section 38‑33‑20(8).

(4) ‘Health plan’ means a policy, contract, certification, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse the costs of the health services.

(5) ‘Insurer cost’ means the amount an enrollee’s health plan insurer would pay for a covered prescription drug after accounting for rebates and absent enrollee cost sharing.

(6) ‘Rebate’ means the:

(a) negotiated price concessions including, but not limited to, base rebates and reasonable estimates of price protection rebates and performance‑based rebates that may accrue directly or indirectly to the insurer during the coverage year from a manufacturer, dispensing pharmacy, or other party to the transaction; and

(b) reasonable estimates of any fees and other administrative costs that are passed through to the insurer and serve to reduce the insurer’s prescription drug liabilities for the coverage year.

(B) An insurer must annually certify to the Department of Insurance that the insurer reduced the level of cost sharing that it would otherwise charge an enrollee by an amount equal to at least a majority of the rebates received by the insurer during the prior benefit year and for each of its health plans.

(C) Nothing in this section may be construed to prevent an insurer or health plan from reducing an enrollee’s cost sharing amounts by an amount greater than the amount provided in subsection (B).

(D) An insurer that fails to comply with the requirements of this section is subject to the penalties provided in Section 38‑2‑10 for each offense.

(E) An insurer may not publish or otherwise reveal information regarding the actual amount of the rebates the insurer received on a product‑specific, manufacturer‑specific, or pharmacy‑specific basis. This information is protected as a trade secret, is not a public record, and may not be disclosed directly or indirectly. An insurer must impose the confidentiality protections on a vendor or third party that performs health care or administrative services on behalf of the insurer that may receive or have access to rebate information.”

SECTION 2. This act takes effect upon approval by the Governor.

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