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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1042 Session of 2015

INTRODUCED BY DeLUCA, PICKETT, THOMAS, HARKINS, McNEILL AND D. COSTA, APRIL 21, 2015

REFERRED TO COMMITTEE ON INSURANCE, APRIL 21, 2015

AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," in casualty insurance, providing for pharmaceutical cost transparency.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, is amended by adding a section to read:

Section 635.7. Pharmaceutical Cost Transparency.--(a) With respect to a prescription drug with an average wholesale price of five thousand dollars ($5,000) or more annually or per course of treatment, a health insurance policy or government program providing benefits for prescriptions shall not be required to provide the benefits if the manufacturer of the prescription

drug has not filed a report on the drug as required under subsection (b).

(b) On or before March 1 of each year, a manufacturer of a prescription drug covered under subsection (a) shall file with the Insurance Department the following information on a form prescribed by the Insurance Department:

(1) The costs for the production of the drug, including the following:

(i) The research and development costs paid by the manufacturer, and separately, the research and development costs paid by any predecessor in the development of the drug.

(ii) The costs of clinical trials and other regulatory costs paid by the manufacturer, and separately, the costs of clinical trials and other regulatory costs paid by any predecessor in the development of the drug.

(iii) The costs for materials, manufacturing and administration attributable to the drug.

(iv) The costs paid by any entity other than the manufacturer or predecessor for research and development, including, but not limited to, any amount from Federal, State or other governmental programs or any form of subsidies, grants or other support.

(v) The other costs to acquire the drug, including costs for the purchase of patents, licensing or acquisition of a corporate entity owning rights to the drug while in development, or all of the costs under this subparagraph.

(vi) The marketing and advertising costs for the promotion of the drug directly to consumers, including, but not limited to:

(A) Costs associated with coupons or discounts, that are

directed to consumers and the amount redeemed.

(B) Marketing and advertising costs for promotion of the drug directly or indirectly to prescribers.

(C) Any other advertising for the drug.

(2) The filing under paragraph (1) must be audited and certified by an independent third-party auditor prior to filing.

(3) A cumulative annual history of average wholesale price increases for the drug expressed as percentages, including the months each average wholesale price increase took effect.

(4) The profit attributable to the drug as represented in dollars and represented as a percentage of the total company profits that were derived from the sale of the drug.

(5) A description of the manufacturers' patient prescription assistance programs, including, but not limited to:

(i) The amount of financial assistance provided.

(ii) The amount of financial assistance provided to residents of this Commonwealth.

(iii) The average amount of assistance per resident of this Commonwealth and for which drugs the assistance was provided.

(iv) The parameters and qualifications for the patient prescription assistance programs.

(6) Any payments, direct or indirect, to hospitals, health care providers and physicians in excess of the actual acquisition costs of the prescription drugs covered under subsection (a).

(c) As used in this section:

(1) "Government program" means any of the following:

(i) The Commonwealth's medical assistance program established under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(ii) The Children's Health Care Program established under Article XXIII.

(iii) The program of pharmaceutical assistance for the elderly established under Chapter 5 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

(2) "Health insurance policy" means a group or individual health or sickness or accident insurance policy, subscriber contract or certificate issued by an entity subject to any one of the following:

(i) This act.

(ii) The act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

(iii) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

The term does not include accident only, fixed indemnity, limited benefit, credit, dental, vision, specified disease, Medicare supplement, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement, long-term care or disability income, workers' compensation or automobile medical payment insurance.

(3) "Insurer" means an entity that issues a group or individual health, sickness or accident policy or subscriber contract described under paragraph (2).

(4) "Prescription" means a written or oral order issued by a duly licensed medical practitioner in the course of the practitioner's professional practice for a controlled substance, other drug or device or medication that is dispensed for use by a consumer.

Section 2. This act shall take effect in 60 days.