

House Bill 1027

By: Representatives Hawkins of the 27<sup>th</sup>, Taylor of the 173<sup>rd</sup>, Frye of the 118<sup>th</sup>, Stephens of the 164<sup>th</sup>, Silcox of the 52<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to  
2 regulation and licensure of pharmacy benefits managers, so as to provide for requirements  
3 relating to rebates received from pharmaceutical manufacturers; to provide for definitions;  
4 to prohibit certain activity; to provide for transparency; to prohibit public disclosure of  
5 certain information relating to rebates; to provide for an effective date and applicability; to  
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and  
10 licensure of pharmacy benefits managers, is amended by revising Code Section 33-64-1,  
11 relating to definitions, by adding new paragraphs to read as follows:

12 "(1.1) 'Client' means a health benefit plan issuer or covered entity that has retained the  
13 services of a pharmacy benefits manager to perform pharmacy benefits management for  
14 the issuer or covered entity."

15 "(3.05) 'Defined cost sharing' means a deductible, payment, or coinsurance amount  
16 charged to an enrollee for a covered prescription drug under the enrollee's health plan."

17 "(9) 'Rebate' means:

18 (A) Negotiated price concessions, including but not limited to base price concessions,  
19 whether described as a rebate or otherwise, and reasonable estimates of any price  
20 protection rebates and performance based price concessions that may accrue directly  
21 or indirectly to the pharmacy benefits manager or client during the coverage year from  
22 a pharmaceutical manufacturer, dispensing pharmacy, or other party in connection with  
23 the dispensing or administration of a prescription drug; and

24 (B) Reasonable estimates of any negotiated price concessions, fees, and other  
25 administrative costs that are passed through, or are reasonably anticipated to be passed

26 through, to the pharmacy benefits manager or client and serve to reduce the pharmacy  
 27 benefits manager's or client's prescription drug liabilities for the coverage year."

28 **SECTION 2.**

29 Said chapter is further amended by revising Code Section 33-64-10, relating to  
 30 administration of claims by pharmacy benefit manager, as follows:

31 "33-64-10.

32 (a) A pharmacy benefits manager shall administer claims in compliance with Code Section  
 33 33-30-4.3 and shall not require insureds to use a mail-order pharmaceutical distributor  
 34 including a mail-order pharmacy.

35 (b)(1) A pharmacy benefits manager shall report annually to each client, including but  
 36 not limited to; insurers and payors, the aggregate amount of all rebates that the pharmacy  
 37 benefits manager received from pharmaceutical manufacturers in connection with claims  
 38 if administered on behalf of the client and the aggregate amount of such rebates the  
 39 pharmacy benefits manager received from pharmaceutical manufacturers that it did not  
 40 pass through to the client.

41 (2) A pharmacy benefits manager shall calculate an enrollee's defined cost sharing for  
 42 each prescription drug at the point of sale based on a price that is reduced by an amount  
 43 equal to at least 80 percent of all rebates received, or to be received, in connection with  
 44 the dispensing or administration of the prescription drug.

45 (3) If a pharmacy benefits manager fails to comply with the provisions of this Code  
 46 section, the Commissioner may refuse to issue or, after a hearing, revoke, suspend, or  
 47 refuse to renew a pharmacy benefits manager's license, in addition to any other remedies  
 48 provided for in this title.

49 (4) In complying with the provisions of this subsection, a pharmacy benefits manager  
 50 shall not publish or otherwise directly or indirectly disclose information regarding the  
 51 actual amount of rebates the pharmacy benefits manager receives, including but not  
 52 limited to information regarding the amount of rebates it receives on a product,  
 53 manufacturer, or pharmacy specific basis. Such information shall not be disclosed  
 54 directly or indirectly, shall be protected as a trade secret, and shall not be subject to  
 55 Article 4 of Chapter 18 of Title 50, relating to open records.

56 ~~(c)~~(d) This Code section shall not apply to:

- 57 (1) A care management organization, as defined in Chapter 21A of this title;  
 58 (2) The Department of Community Health, as defined in Chapter 2 of Title 31;  
 59 (3) The State Health Benefit Plan under Article 1 of Chapter 18 of Title 45; or

60 (4) Any licensed group model health maintenance organization with an exclusive  
61 medical group contract and which operates its own pharmacies licensed under Code  
62 Section 26-4-110.1."

63 **SECTION 3.**

64 This Act shall become effective on July 1, 2020, and shall apply to all contracts issued,  
65 delivered, or issued for delivery in this state on and after January 1, 2021.

66 **SECTION 4.**

67 All laws and parts of laws in conflict with this Act are repealed.