

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2840

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2840 (1R).

As amended, this bill establishes data reporting requirements for pharmacy benefits managers (PBMs), wholesale drug distributors, insurance issuers, manufacturers, and pharmacy services administrative organizations so that the Division of Consumer Affairs can issue an annual report on emerging trends in prescription drug pricing at each stage of the supply chain. Every year, each of these reporting entities must register with the department and report on measures such as the volume, sales, revenue and year-over-year change in prescription drug transactions. Once the department compiles this information and publishes its annual report on prescription drug pricing trends, it must hold a public hearing on the findings.

The bill also mandates that a manufacturer notify the department if it is increasing the price of a prescription drug or if it is introducing: a new drug with a wholesale acquisition cost that exceeds the Medicare Part D specialty threshold, or a biosimilar drug that has a wholesale acquisition cost that is not at least 15 percent less than the wholesale acquisition cost of the referenced brand biologic at the time the biosimilar is launched. The price increase reporting requirement applies in any case where a manufacturer increases the wholesale acquisition cost of brand name or generic drugs by certain specified amounts.

Additionally, the bill establishes a Drug Affordability Council in, but not of, the Department of Law and Public Safety. The purpose of this five public member council is to formulate legislative and regulatory policy recommendations that will protect New Jersey residents, State and local governments, health benefits plans, health care providers, licensed pharmacies, and other stakeholders within the State health care system from the high costs of prescription drug products. The five public members of the council are appointed as follows: three members appointed by the Governor; one member appointed by the Governor upon recommendation of the President of

the Senate; and one member appointed by the Governor upon recommendation of the Speaker of the General Assembly. Each public member of the council is required to have expertise in health care economics, health care policy, or clinical medicine.

The bill requires the council to review the reports issued and data collected by the division pursuant to the bill and to submit annually recommendations for legislative, regulatory or other action to the Governor and the Legislature that seek to advance the goal of more affordable and accessible prescription drugs for New Jersey residents.

The bill appropriates from the General Fund to the Division of Consumer Affairs in the Department of Law and Public Safety \$1,500,000 to implement the provisions of the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) modify the notification requirements that a manufacturer must make to the division if the manufacturer is increasing the wholesale acquisition cost of a generic drug;

(2) allow a manufacturer to provide the division with national data of a drug and drug group in lieu of State-specific data upon proof satisfactory to the division that the State-specific data is unavailable to the manufacturer;

(3) revise timelines for pharmacy benefits managers and wholesalers to report data to the division on certain drugs and drug groups;

(4) require carriers to report annually to the division: (1) the total enrollee cost sharing in the last calendar year; and (2) the highest year-over-year increase in enrollee cost sharing per use of any drug in the drug group;

(5) revise the information that a pharmacy services administrative organization must provide to the division;

(6) revise civil penalties for entities that do not comply with the division's reporting requirements and for persons who willfully disclose confidential information;

(7) prohibit the division from varying the annual assessment amount that a reporting entity must pay to the division based on the type of entity paying the assessment and allow the division to accept partial payments for assessments and remit certain funds in the event of an operational cost surplus;

(8) revise the division's public reporting requirements;

(9) revise the annual assessment requirement and require the Director of the Division of Consumer Affairs to determine the annual assessment for pharmacy services administrative organizations;

(10) establish a Drug Affordability Council to review the reports and data compiled pursuant to the bill and to formulate legislative and regulatory policy recommendations concerning prescription drugs;

(11) remove reporting requirements for manufacturers of insulin products;

(12) increase the appropriation from \$900,000 to \$1,500,000; and

(13) make certain technical changes.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.