SUBJECT: Changing the drug reimbursement methodology for Medicaid and CHIP

COMMITTEE: Public Health — committee substitute recommended

VOTE: 9 ayes — S. Thompson, Wray, Allison, Frank, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

2 absent — Coleman, Guerra

WITNESSES: For — Louis Rumsey, Alliance of Independent Pharmacist; Anjanette Wyatt, Clinical Care Pharmacy, Texas Association of Independent Pharmacy Owners; Hannah Mehta, Protect Texas Fragile Kids; Duane Galligher, Texas Independent Pharmacies Association; Susan Burek; (*Registered, but did not testify*: Ashley Bishop, AIP Texas; Jaime Capelo and Audra Conwell, Alliance of Independent Pharmacists; Cynthia Humphrey, Association of Substance Abuse Programs; Jay Bueche, H-E-B; Lindsay Lanagan, Legacy Community Health; Will Francis, National Association of Social Workers-Texas Chapter; Annie Spilman, NFIB; Rebecca Galinsky, Protect Texas Fragile Kids; Bradford Shields, Texas Federation of Drug Stores and Texas Society of Health-System Pharmacists; JD Fain and Kevin George, Texas Independent Pharmacies Association; Linda Litzinger, Texas Parent to Parent; Stephanie Chiarello and Debbie Garza, Texas Pharmacy Association; Michael Wright, Texas Pharmacy Business Council; John Heal, Texas TrueCare Pharmacies; Morris Wilkes, United Supermarkets; Holly Deshields, Walgreens; and nine individuals)

Against — Daniel Chambers, Cigna-Healthspring; Khang Tran-Tan, Cook Children Health Plan; Kay Ghahremani, Texas Association of Community Health Plans; Laurie Vanhoose, Texas Association of Health Plans; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans (AHIP); Lilalyn Punsalan, Community Health Choice; Mindy Ellmer, PCMA; Jessica Boston, Texas Association of Business)

On — (*Registered, but did not testify*: Rachel Butler, Gina Muniz, Stephanie Muth, and Priscilla Parrilla, Health and Human Services Commission; Lindsay Lanagan, Legacy Community Health; Colby Schaeffer, Navigant)

BACKGROUND:

Government Code sec. 533.005 requires a contract between a Medicaid managed care organization (MCO) and the Health and Human Services Commission to include a requirement that the MCO maintain an outpatient pharmacy benefit plan for its enrolled recipients under which the MCO or pharmacy benefit manager (PBM) is required to ensure that drugs placed on a maximum allowable cost list meet certain specifications. The MCO or PBM also must review and update maximum allowable cost price information at least once every seven days to reflect any modification in pricing and must provide a process in which each network pharmacy provider can access sources used to determine the maximum allowable cost pricing.

DIGEST:

CSHB 3388 would require a managed care organization (MCO) that contracted with the Health and Human Services Commission (HHSC) or pharmacy benefit manager (PBM) to reimburse a pharmacy or pharmacist, including a Texas retail or specialty pharmacy, for dispensed prescription drugs. The bill would remove provisions regarding maximum allowable cost requirements and replace them with requirements that the MCO or PBM comply with the bill's reimbursement methodology as a condition of contract retention and renewal.

Reimbursement methodology. Pharmacies or pharmacists would receive reimbursement if they dispensed a prescription drug, other than a drug obtained under the federal Public Health Service Act sec. 340B, to a recipient for at least the lesser of:

- the reimbursement amount under the vendor drug program (VDP), including a dispensing fee not less than the fee under the VDP; or
- the amount the pharmacy or pharmacist claimed, including the gross amount due or the usual and customary charge to the public for the drug.

Pharmacies and pharmacists also would receive reimbursement if they dispensed a prescription drug at a discounted price under Public Health Service Act sec. 340B to a recipient for at least the lesser of the reimbursement amount under the VDP, including a dispensing fee that was not less than the fee under the VDP. The dispensing fee adopted by the executive commissioner would have to be based on Texas pharmacies' professional dispensing costs for those drugs.

The bill would require the reimbursement methodology adopted by the executive commissioner of HHSC to be:

- consistent with the actual prices Texas pharmacies pay to acquire prescription drugs marketed or sold by a specific manufacturer; and
- based on the National Average Drug Acquisition Cost published by the Centers for Medicare and Medicaid Services or another executive commissioner-approved publication.

HHSC duties. The executive commissioner would have to develop a process for the periodic study of Texas retail and specialty pharmacies' actual acquisition costs for prescription drugs and professional dispensing costs. The results of each study would be posted on HHSC's website.

The bill would require HHSC at least once every two years to conduct a study of Texas pharmacies' dispensing costs for retail and specialty prescription drugs and drugs obtained under the Public Health Service Act. Based on the study's results, the executive commissioner would have to adjust the minimum amount of the professional dispensing fees.

Other provisions. The bill's required reimbursement methodology for prescription drugs also would apply to the state Children's Health Insurance Program (CHIP). The bill would repeal a requirement that a maximum allowable cost list specific to a provider and maintained by an MCO or PBM be confidential.

The bill would take effect March 1, 2020.

SUPPORTERS SAY:

CSHB 3388 would help ensure pharmacies received fairer reimbursement for Medicaid managed care and CHIP prescriptions. Since prescription drug benefits were added to Medicaid managed care in 2012, the pharmacy benefit managers (PBMs) that administer pharmacy benefits for managed care organizations (MCOs) have routinely reimbursed pharmacies at below the acquisition cost for many drugs. Independent pharmacies lack the ability to negotiate with PBMs and MCOs, which has caused some of these pharmacies to close due to financial constraints.

The bill would allow Medicaid managed care reimbursements for prescription drugs to be tied to the National Average Drug Acquisition Cost (NADAC), which is a more steady and accurate pricing benchmark. Allowing the use of the NADAC would improve transparency in prescription drug reimbursement rates and be fairer to pharmacies, patients, and taxpayers.

The bill would not affect which drugs were covered by a Medicaid or CHIP plan, the generics or brand name medications covered by a plan, the formulary for these plans, or rebates. The bill would increase fairness for prescription drug benefits in MCO contracts.

OPPONENTS SAY:

CSHB 3388 could increase state costs by changing the prescription drug reimbursement methodology for PBMs and MCOs. PBMs help save the state money and improve patient outcomes by negotiating better deals with pharmacies and ensuring patients do not take unnecessary drugs. Reinstating a prescription drug benefit model that was implemented before 2012 could lead to more patient ER visits, increased opioid prescription rates, and less medication adherence.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $8.1 million to general revenue related funds through fiscal 2020-21.