



January 21, 2022

SENATE BILL No. 88

DIGEST OF SB 88 (Updated January 19, 2022 12:43 pm - DI 140)

Citations Affected: IC 27-1.

Synopsis: Prescription drug rebates and pricing. Provides that the defined cost sharing for a prescription drug under a covered individual's health insurance coverage must be calculated at the point of sale and based on a price that is reduced by an amount equal to at least 85% of all rebates received by the insurer in connection with the dispensing or administration of the prescription drug.

Effective: January 1, 2023.

Charbonneau, Becker, Ford J.D.

January 4, 2022, read first time and referred to Committee on Health and Provider Services.
January 20, 2022, reported favorably — Do Pass.

SB 88—LS 6449/DI 137



January 21, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 88

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-48 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2023]:

4 **Chapter 48. Prescription Drug Rebates**

5 **Sec. 1. As used in this chapter, "covered individual" means an**
6 **individual who is entitled to health insurance coverage.**

7 **Sec. 2. As used in this chapter, "defined cost sharing" means a**
8 **deductible payment or coinsurance amount imposed on a covered**
9 **individual for a covered prescription drug under the covered**
10 **individual's health insurance coverage.**

11 **Sec. 3. As used in this chapter, "health insurance coverage"**
12 **includes:**

13 (1) a policy of accident and sickness insurance (as defined in
14 IC 27-8-5-1);

15 (2) an individual contract (as defined in IC 27-13-1-21) or a
16 group contract (as defined in IC 27-13-1-16) that provides
17 coverage for basic health care services (as defined in

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1 IC 27-13-1-4); and

2 (3) any other health plan that is subject to state law regulating
3 insurance and offers health insurance coverage (as defined in
4 42 U.S.C. 300gg-91).

5 Sec. 4. As used in this chapter, "insurer" means an insurer that
6 provides health insurance coverage to a covered individual.

7 Sec. 5. As used in this chapter, "price protection rebate" means
8 a negotiated price concession that accrues directly or indirectly to
9 an insurer, or another party on behalf of an insurer, if there is an
10 increase in the wholesale acquisition cost of a prescription drug
11 above a specified threshold.

12 Sec. 6. As used in this chapter, "rebate" means:

13 (1) a discount or other negotiated price concession, including
14 but not limited to base price concessions (whether described
15 as a rebate or otherwise) and reasonable estimates of price
16 protection rebates, and performance based price concessions,
17 that may accrue directly or indirectly or are anticipated to be
18 passed through to an insurer during the coverage year from
19 a manufacturer, dispensing pharmacy, or other party in
20 connection with the dispensing or administration of a
21 prescription drug; and

22 (2) a reasonable estimate of any negotiated price concession,
23 fee, or other administrative cost that is passed through, or is
24 reasonably anticipated to be passed through, to the insurer
25 and serves to reduce the insurer's liability for a prescription
26 drug.

27 Sec. 7. A covered individual's defined cost sharing for a
28 prescription drug must be:

29 (1) calculated at the point of sale; and

30 (2) based on a price that is reduced by an amount equal to at
31 least eighty-five percent (85%) of all rebates received or
32 estimated to be received by the insurer in connection with the
33 dispensing or administration of the prescription drug.

34 Sec. 8. Nothing in this chapter prohibits an insurer from
35 decreasing a covered individual's defined cost sharing by an
36 amount greater than the amount required under section 7 of this
37 chapter.

38 Sec. 9. The department of insurance may enforce the
39 requirements of this section to the extent permissible under
40 applicable law.

41 Sec. 10. The commissioner may take appropriate action to
42 enforce this section by imposing a civil penalty not to exceed ten



1 thousand dollars (\$10,000) per violation.

2 **Sec. 11.** In complying with the requirements of this chapter, an
3 insurer or an insurer's agent may not publish or otherwise reveal
4 information regarding the actual amount of rebates the insurer
5 receives on a product, manufacturer, or pharmacy specific basis.
6 This information is protected as a trade secret (as defined in
7 IC 24-2-3-2) and may not be published or otherwise disclosed
8 directly or indirectly. An insurer shall impose the confidentiality
9 requirements of this section on any vendor or downstream third
10 party that performs health care or administrative services on
11 behalf of the insurer that may receive or have access to rebate
12 information.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 88, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 88 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 7, Nays 4

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