# The State of States on Rx Costs

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Louisiana

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# Agenda

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- Background of Rx Benefit in Louisiana Medicaid Managed Care
- Rx Benefit Cost Containment Strategies
- 2017 Legislation from Health Insurance Industry
- 2018 Legislation from Pharmacy-Related Industries

# Timeline - Medicaid Rx Benefit in Managed Care

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- 02/2012 – Implementation of Medicaid Managed Care in Louisiana
- 12/2012 – Carve in of Rx Benefit into Covered Benefit for capitated plans
- 02/2015 – Second Contract Period Begins with full transition to capitated model
- 08/2015 – MCOs publish a contractually mandated Common PDL (no PA or Step Edits)
- 01/2016 – Statute enacted allowing local pharmacies to dispute reimbursement from MCOs at rate lower than what they would earn in FFS including high dispensing fee.
- 10/2017 – Replaced dispute process with definitive floor for local pharmacies
- 10/2017 – LDH retracted rule set to implement Single PDL for targeted drug classes.
- 07/2018 – Results of Cost of Dispensing Survey tentatively scheduled for release
- 01/2019 – Single PDL scheduled for implementation.

# Pharmacy Program Cost Strategies

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| | | |
|---|---|---|
| Cost of Goods Sold | Drug Prices | PDL/Formulary*<br>Manufacturer Rebates*<br>Generic and Therapeutic Substitution*<br>Copays<br>Pharmacy Reimbursement† |
| Cost of Service | • Dispensing Fees<br>• PBM Fees | Disp. Fee Negotiations†<br>Limited Pharmacy Network<br>Claims Adjudication Accuracy<br>Automated PA Submission/Approval |
| Utilization | Formulary | Drug Therapy Mgmt<br>Drug Utilization Review<br>Copays<br>Quantity Limits/Age Limits<br>Prior Auth*/Step Therapy |

**Would be limited by single PDL*
*†Limited by contract for "local" pharmacies*

# 2017 Legislation - Louisiana

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In 2017, the Louisiana Legislature passed two drug pricing transparency laws.

LAHP asked the authors to file these bills, which were significantly changed during the legislative process.

- SB59 by Senator Fred H. Mills, Jr.
  - Chairman of Senate Committee on Health and Welfare
  - HEALTH CARE: Provides relative to prescription drug price information
- HB436 by Representative Kirk Talbot
  - Chairman of House Committee on Insurance
  - DRUGS/PRESCRIPTION: Requires drug manufacturers to provide information regarding prescription drug prices

The bills did nothing to reduce drug costs or truly increase transparency on the Medicaid side since the La. Department of Health sets AAC in a completely different manner for fee-for-service and local pharmacies, and Medicaid MCOs are still able to set our own pricing for chain pharmacies.

The passage of these bills did lead pharmacy-related industries to go the attack and to seek legislation during the 2018 Regular Session.

# SB 59 (Act 236)

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Original Bill

- Requires pharmaceutical drug marketers to present a prescriber with a completed form disclosing current and historical drug pricing information when they are marketing the drug to the prescriber or the prescriber's staff.

Final Bill

- Requires the La. Board of Pharmacy to develop a website to contain prescription drug information, including WAC and other data elements separated by therapeutic category, to be made available to prescribers on the board's website with a dedicated link that is prominently displayed on the board's home page, or by a separate easily identifiable Internet address.
- A pharmaceutical marketer engaging in any form of prescription drug marketing in the state directly to a prescriber or his staff may disclose the website address and inform the prescriber that he may access the website to obtain information on the cost of prescription drugs.
- Each health profession licensing board that regulates individuals with prescriptive authority in the state must advise their licensees at least once annually of the opportunity to access this website.
- The implementation of new law is contingent upon the board obtaining grant funds from a private entity for the development, implementation, operation, and continued maintenance of the drug pricing disclosure website.

# HB 436 (Act 220)

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Original Bill

- Establishes the Prescription Drug Review Committee within the Insurance Dept. and requires the committee to develop a list of critical prescription drugs available in Louisiana.
- Requires manufacturers to report costs of production, research and development, marketing, and prices for the drug that are charged outside the U.S., by country and prices charged to typical La. purchasers.
- Requires the committee to prepare an annual report on prescription drug prices and their role in overall healthcare spending in the state based on the data submitted to the committee.
- Requires marketing materials to include the name of the drug and of the current manufacturer, the average wholesale price of a 30-day supply or for the duration of therapy, the date that the drug was first marketed in U.S., the average wholesale price on each date that the price of the drug has changed.
- Proposed law requires the completed form to be provided to the healthcare provider at the same time and in the same manner as any other marketing materials provided to the provider.
- Violations of proposed law constitute a prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

Final Bill

- Requires each drug manufacturer or pharmaceutical marketer who engages in any form of prescription drug marketing to a prescriber or his staff in La. to provide to the La. Board of Pharmacy at the beginning of each quarter the current WAC information for USDA approved drugs marketed in the state by that manufacturer.

# 2018 Legislation - Louisiana

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Senator Mills filed several bills hostile to MCOs, PBMs, and other health insurers.

SB130 - MEDICAID: Provides relative to contracts for Medicaid PBM services

- Originally would have carve-out pharmacy by requiring LDH to issue a separate RFP for a single PBM either during the next round of Medicaid managed care procurement or sooner, as long as it complied with procurement law.
- Final version includes
  - prohibition on spread-pricing
  - limitation on PBM contracts to a transaction fee only, based on a set rate established by the LDH
  - any-willing-provider clause that is currently a contractual, not statutory, requirement

SB282 - HEALTH/ACC INSURANCE: Provides relative to prescription drug pricing and excessive cost burdens

SB283 - HEALTH/ACC INSURANCE: Provides relative to PBMs and “rebate transparency”

- Filed at the request of PhRMA
- The original versions of both bills included Medicaid MCOs, which PhRMA wanted excluded

# 2018 Legislation - Louisiana

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SB29 - HEALTH SERVICES: Provides relative to a single uniform prescription drug prior authorization form

- Prior law required Medicaid MCOs to accept a standard PA form, in addition to other forms
- Prior law also required individual health insurance issuers licensed by DOI to develop a standardized PA form, submitted to and kept on file with DOI
- New law requires both Medicaid MCOs and other insurers to use a standard PA form that will be jointly developed by the Louisiana Board of Pharmacy and the Louisiana State Board of Medical Examiners
- Provides that Medicaid MCOs and other insurers can be sanctioned by their respective regulatory agency for failure to comply

SB324 - INSURANCE COMMISSIONER: Provides relative to limitations on contracts with pharmacies.

- Would have prohibited “gag clauses” in pharmacy contracts
- Senator Mills did not pursue in deference to other legislators

# 2018 Legislation - Louisiana

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In addition to Mills' bill, 3 other bills were filed to ban the practice known as the "gag rule."

HB547 - DRUGS/PRESCRIPTION: Prohibits penalties for disclosure by pharmacists of certain prescription drug cost information

- Deferred in committee

HB436 - INSURANCE/HEALTH: Provides relative to the regulation of pharmacy benefit managers

- Comprehensive bill filed at the request of LA Independent Pharmacies Association
- Applicable only on commercial side
- In addition to gag clause prohibition, provides for MAC appeals process through DOI

SB241 - PHARMACEUTICALS: Provides relative to pharmacist communication with patients

- Authorizes pharmacists to inform patients that a cheaper alternative may be available, including cash payment if a cash payment is cheaper than the patient's insurance copayment or deductible amount.
- Provides immunity for a pharmacist who does not provide the information to a patient.
- PCMA and health insurers were not in opposition to this bill as it was the mildest of all.

# 2018 Legislation - Louisiana

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Other legislators filed, but did not pass legislation to further regulate the Medicaid pharmacy program:

HB336 - MEDICAID: Provides for a single preferred drug list in Medicaid managed care

SB226 - HEALTH CARE: Provides relative to maximum allowable drug pricing in the Medicaid pharmacy program

Senator John Milkovich, the author of SB226, eventually was able to add language to the General Appropriations bill that would have:

- Required LDH and MCOs to "make reasonable efforts" to negotiate rebates in an amount that would result in aggregate net ingredient costs equal to or lower than those offered to various US governmental entities and programs.
- Prohibited LDH from considering in rate setting, any amount of rebates returned to the state if the profits of an MCO or its parent company exceeded $50 million.

Governor Edwards agreed to a line-item veto of the language as it required actions that are unachievable and is in conflict with federal regulations regarding actuarial soundness.

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