LD 686, An Act To Increase Prescription Drug Pricing Transparency

SUMMARY:

This bill amends the law governing prescription drug pricing as follows:

1. It removes the requirement that manufacturers provide notice to MHDO of triggered changes in wholesale acquisition costs (WAC) of a prescription drug and instead requires MHDO to post on its website a list of prescription drugs that hits the trigger defined in statute.

2. It provides that MHDO must annually notify reporting entities with 30-day notice of drug product families for which MHDO intends to request pricing component data.

3. It clarifies that MHDO is authorized to request data for any drug it considers relevant to providing greater consumer awareness with emphasis on drugs with triggered WAC changes or included on MHDO's top 25 drug reports as required by statute; and

4. It modifies what pricing information may be publicly reported by allowing identification of specific drugs, reporting entities, and publicly available pricing information as long as specific contract terms are not disclosed.

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CURRENT LAW:

Under current law, enacted as Public Law 2019, chapter 470 in the 129th Legislature, prescription drug manufacturers are required to notify the Maine Health Data Organization by January 30th annually, if during the previous calendar year, the manufacturer (1) increased the wholesale acquisition cost of a brand-name drug by more than 20% per pricing unit; (2) increased the wholesale acquisition cost of a generic drug that costs at least $10 per pricing unit by more than 20% per pricing unit; or (3) introduced a new drug for distribution in this State when the wholesale acquisition cost is greater than the amount that would cause the drug to be considered a specialty drug under the Medicare Part D program. Within 60 days of a request from MHDO relating to a specific prescription drug, a manufacturer, wholesale drug distributor or pharmacy benefits manager is also required to provide MHDO pricing component data per pricing unit of a drug.

The law also requires MHDO to produce and post on its publicly accessible website an annual report, including information developed from the notifications and disclosures received pursuant to this subchapter on trends in the cost of prescription drugs, analysis of manufacturer prices and price increases, the major components of prescription drug pricing along the supply chain and the impacts on insurance premiums and cost sharing and any other information the organization determines is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the State. The first report was submitted by MHDO in February 2021.

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TESTIMONY: Written testimony can be found at this link

ISSUES FOR CONSIDERATION:

1. Consider definition of "drug product family"? Does this expand the scope of entities that MHDO will ask to report information? Representatives of manufacturers, distributors and pharmacy benefits managers raised concerns about the impact of including this language and adding to reporting requirements. As drafted, the bill clarifies the statutory authority to require reporting related to drug product families; LD 41 authorizes final adoption of MHDO's rule establishing uniform standards for reporting that data to MHDO.

2. Consider amending definition of "prescription drug" in the bill to clarify language in paragraph C to refer to both dispensing and administering of a drug by prescription? This was suggested in testimony from Community Health Options.

3. Consider impact of allowing identification of specific drugs? As drafted, bill removes that restriction and would permit disclosure as long as it is not released in a manner that allows the determination of individual prescription drug pricing contract terms.

FISCAL INFORMATION:

Not yet determined