

# MassSenate

## An Act relative to pharmaceutical access, costs and transparency (S.3012)

### Fact Sheet & Highlights

[An Act relative to pharmaceutical access, costs and transparency](#) addresses the urgent issue of skyrocketing prescription drug costs for Massachusetts residents.

This legislation takes a multi-pronged approach to reform: lowering drug costs, increasing access for individuals at the pharmacy counter, and making broad, necessary changes to the state's health care system to add oversight and transparency.

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### Increasing Access, Lowering Costs & Promoting Equity

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**Capping Out-of-Pocket Costs for People with Diabetes, Asthma and Heart Conditions.** This bill limits out-of-pocket costs for certain drugs used to treat diabetes, asthma, and two of the most prevalent heart conditions. For each of these conditions, insurers, including MassHealth, are required to select one generic and one brand-name drug that will be subject to a co-pay cap. For diabetes, the drug must be insulin, and each insurer must offer an option for each dosage and type of insulin. The selected generic drug must be provided to the insurer's members for free, without any co-pays. For the selected brand-name drug, co-pays are capped at \$25 for a 30-day supply.

The state maintains the authority to direct an insurer to select a different drug that is widely used and effective if the first selection is deemed insufficient, and the Health Policy Commission (HPC) is directed to study the impact of these co-pay caps on patient access and overall system costs.

**Lowest Price at the Pharmacy.** Building on federal action to ensure that patients pay the lowest possible cost at the pharmacy counter, this bill ensures that a patient purchasing a prescription drug is not charged a cost-sharing amount, such as a co-pay or deductible, that exceeds the drug's retail price.

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### Improving Oversight & Transparency

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**Pharmacy Benefit Managers Licensure.** This bill creates a licensing process with the Division of Insurance (DOI) for pharmacy benefit managers (PBMs), which act as brokers in the drug transaction process and play a major role in determining drug costs. Insurance companies use PBMs to develop formularies and to contract with both pharmaceutical manufacturers and pharmacies. Currently, state law has no process to license PBMs or ensure they meet reasonable financial and organizational standards. This bill creates that licensing process and establishes sanctions for PBMs that fail to act in the best interests of consumers.

**Center for Health Information and Analysis Review.** This bill adds drug costs to the scope of the health care cost analysis conducted by the Center for Health Information and Analysis (CHIA). CHIA's collection, analysis and research on provider and insurance cost information have helped the state to understand what is driving rising costs in the health care space, and this work has been instrumental in both setting and gauging progress toward the state's annual health care cost growth benchmarks. In this bill, CHIA is empowered to collect a range of drug cost information from pharmaceutical manufacturers and PBMs. This information will provide policymakers and consumers with data to understand drug cost drivers and to assess the impact of cost control initiatives.

**Improving Health Care Cost Trends Analysis.** Under this legislation, pharmaceutical manufacturing companies and PBMs will be included in HPC's Annual Health Care Cost Trends Hearings and Health Care Cost Growth Benchmark Hearings. The Cost Trends Hearings have been instrumental in increasing transparency and accountability for health care providers and insurers and in helping the state to meet the annual health care cost growth benchmark. By participating in this process, pharmaceutical manufacturing companies and PBMs will testify publicly on the factors that influence drug costs and provide supporting documents. HPC will use this information to develop an analysis of how pharmaceutical costs impact the state's health care market and its residents.

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### Background on Pharmaceutical Reform in the Senate

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S.2520 builds on past legislative efforts to bring down the cost of prescription drugs. Beginning in fiscal year 2020, the Legislature authorized MassHealth to negotiate supplemental drug rebates, saving the state millions of dollars each year. In 2019, the Senate passed the first iteration of the *PACT* Act, proposing several important policy initiatives to rein in drug costs and improve patient access. In 2022, the Senate passed an updated version of the *PACT* Act, which included expanded measures to lower costs and protect patients. Both chambers passed pharmaceutical reform legislation this session, culminating in the final version encompassed in S.3012.