

MassSenate

PHARMACEUTICAL ACCESS, COST AND TRANSPARENCY LEGISLATION: THE PACT ACT 2022 Fact Sheet

The *PACT Act 2022* is comprehensive pharmaceutical cost control legislation. This legislation puts the Senate at the forefront of the state's efforts to tackle rapidly rising prescription drug costs by connecting greater drug price transparency with policies to improve oversight for the pharmaceutical industry and reduce overall drug costs to patients and the state's health care system.

Background

The Senate has long been a leader in developing policies to address the high cost of prescription drugs. The *HEALTH Act*, passed by the Senate in 2017, proposed policies to incorporate pharmaceutical costs into the state's annual health care cost oversight process and ensure that consumers are offered the lowest available prices at the pharmacy. The Senate also led the way, beginning in fiscal year 2020, in authorizing MassHealth to negotiate supplemental drug rebates, saving the state millions of dollars each year. In November 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.

The *PACT Act 2022*

This session's *PACT Act* builds on what the Senate passed in 2019, presenting a comprehensive approach to pharmaceutical cost control that focuses on access and cost improvement, transparency and oversight. New provisions in this bill include permanently capping co-pays for insulin at \$25 per 30-day supply, ensuring that patients can get prescriptions at the pharmacy of their choice, and creating a new drug cost assistance trust fund.

Increasing Patient Access & Lowering Costs

Capping Patient Out-of-Pocket Insulin Costs. This bill will limit out-of-pocket insulin spending for consumers by capping co-pays at \$25 per 30-day supply, and exclude insulin costs from deductibles and coinsurance. Consumers have been experiencing sharp increases in the price of insulin, resulting in out-of-pocket costs that can reach \$1,000 or more per year for those with high-deductible plans or who are underinsured. This approach addresses an existing market failure that forces many people to either forgo or limit their use of insulin, which only increases the likelihood of other more dangerous and expensive health conditions in the future. The Health Policy Commission (HPC) will study the impact of this cap on patient access to insulin.

Ensuring Patients Pay the 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.

Pharmacy Choice for Patients. This bill takes significant steps toward ensuring that patients can get their prescription drugs from the pharmacy that they choose. This bill will allow independent pharmacists the opportunity to become licensed to dispense specialty drugs and contract with carriers to provide specialty medications to patients. In addition, this bill provides patients with greater access to mail-order prescriptions by allowing any network pharmacy to contract with carriers to provide mail-order prescriptions, changing the current practice in which carriers determine what pharmacies are available to patients for mail order prescriptions.

Prescription Drug Cost Assistance Trust Fund. The bill creates a trust fund to provide financial assistance for prescription drugs to treat certain chronic conditions that disproportionately impact communities of color and low-income communities. The creation of this trust fund is one important step toward removing barriers to care that have contributed to racial and other inequities in the health care system. Penalties collected from any compliance failures by pharmacy benefit managers or pharmaceutical manufacturers during the oversight processes created in the bill will be deposited into the fund.

Access and Affordability Improvement Plan Process. Rising drug costs create more than fiscal challenges. Unaffordable medications pose a public health threat not only to an individual patient with a health condition, but through them to the greater population in general. The state needs a process for identifying drugs whose high cost substantially negatively impact patient access, as well as a set of tools to mitigate that impact. This bill directs the Health Policy Commission (HPC), in consultation with stakeholders, to establish a process for identifying drug price changes that pose a public health threat to our residents and the state. The bill also allows the HPC to recommend pricing measures the state could employ to increase patient access to much-needed medications.

Improving Oversight & Transparency

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 and 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.

Drug Price Notification. The bill requires pharmaceutical companies to notify the state before they bring new and biosimilar drugs to market, as well as before they significantly increase the cost of one of their existing drugs. With advanced notification, the MassHealth program can better prepare for potential cost increases by exploring ways to mitigate the cost or negotiating improved prices. In addition, advance notification will enable the HPC to focus on these cost drivers at HPC's annual Cost Trends Hearing.

Center for Health Information and Analysis Review. The 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 cost growth drivers and have been instrumental in measuring and meeting 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 an objective data source 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 Hearing process. 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, the pharmaceutical industry—both manufacturers and PBM—will testify publicly on the factors that influence drug costs and provide supporting documents. The HPC will use this information to develop an analysis on how pharmaceutical costs impact the state's health care market and its residents.

Drug Supply Chain Task Force. This bill creates a drug supply chain task force to help better understand how the relationships between participants in the supply chain impact patient access to and affordability of medications. The task force will submit its findings and recommendations, including methods to increase pricing transparency throughout the supply chain, to the legislature.