

MassSenate

PACT Act 3.0: Pharmaceutical Access, Cost and Transparency

Fact Sheet & Highlights

Relief can't wait. Lives are at stake. The PACT Act 3.0 is a comprehensive bill that addresses the urgent issue of skyrocketing prescription drug costs for Massachusetts residents. This legislation takes a two-pronged approach to reform: by lowering drug costs while increasing access for individuals at the pharmacy counter; and by making broad, necessary changes to the state's health care system to add oversight and transparency.

This legislation goes even further than the 2019 and 2022 Senate versions of this bill in tackling health inequities. If passed, the PACT Act 3.0 would eliminate or cap cost-sharing for patients, including co-pays, for certain drugs that treat diabetes, asthma and heart conditions—all of which disproportionately affect communities of color and low-income populations.

Increasing Access, Lowering Costs & Promoting Equity

Residents pay less at the pharmacy counter, and can go to the pharmacy of their choice

NEW: Capping Out-of-Pocket Costs for People with Diabetes, Asthma and Heart Conditions

This bill limits out-of-pocket costs for drugs used to treat diabetes, asthma, and 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 must be 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.

Prescription Drug Cost Assistance Trust Fund

To further advance health equity, this 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.

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 they choose. This bill allows 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 dispense mail-order prescriptions, changing the current practice in which carriers determine which pharmacies are allowed to provide mail-order prescriptions.

Access and Affordability Improvement Plan Process

Rising drug costs make life harder for residents across Massachusetts. Unaffordable medications pose a public health threat not only to an individual patient with a health condition, but also to the greater population in general. This bill creates a process through which HPC can identify drugs with high prices that substantially negatively impact patient access. In addition, the bill requires that manufacturers work with HPC to lower those costs, and the bill empowers HPC to recommend pricing measures the state could employ to increase patient access to much-needed medications.

Improving Oversight & Transparency

Adding public oversight and holding companies accountable for price increases

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

This bill requires pharmaceutical companies to notify the state before they bring new 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 negotiate better 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

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 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 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.

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 drug supply chain impact patient access to, and the affordability of, medications. The task force will submit its findings and recommendations, including methods to increase price transparency throughout the supply chain, to the legislature.

Background

The Senate has been addressing the high cost of prescription drugs for years

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 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. The PACT Act 3.0 is the Senate’s latest attempt to get these important reforms—which will increase affordability for residents and save lives—through the legislative process and on to the Governor’s desk.