

By: Representative Mettetal

To: Insurance; Public Health  
and Human Services

HOUSE BILL NO. 1215

1 AN ACT TO CREATE NEW SECTION 83-9-6.5, MISSISSIPPI CODE OF  
2 1972, TO REQUIRE INSURERS THAT MAY CHARGE HEALTH BENEFIT PLAN  
3 ENROLLEES EXCESS COST SHARING AMOUNTS TO PROVIDE NOTICE OF SUCH TO  
4 ENROLLEES AND PROSPECTIVE ENROLLEES; TO REQUIRE PHARMACY BENEFIT  
5 MANAGERS TO ANNUALLY CERTIFY TO THE STATE BOARD OF PHARMACY THAT,  
6 DURING THE PRIOR BENEFIT YEAR, THE INSURER MADE AVAILABLE TO  
7 ENROLLEES AT THE POINT OF SALE AT LEAST A MAJORITY OF REBATES; TO  
8 REQUIRE THE STATE BOARD OF PHARMACY TO MAKE CERTAIN NOTIFICATIONS  
9 TO THE COMMISSIONER OF INSURANCE; TO PROVIDE FOR CONFIDENTIALITY  
10 OF INFORMATION REGARDING THE ACTUAL AMOUNT OF REBATES THE INSURER  
11 RECEIVED ON A PRODUCT-SPECIFIC OR MANUFACTURER-SPECIFIC BASIS; AND  
12 FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** The following shall be codified as Section  
15 83-9-6.5, Mississippi Code of 1972:

16 83-9-6.5. (1) As used in this section the following terms  
17 shall have the following meanings unless the context clearly  
18 indicates otherwise:

19 (a) "Excess cost sharing" means a deductible payment,  
20 copayment, or coinsurance amount charged to an enrollee for a  
21 covered prescription drug that is greater than the amount that an  
22 enrollee's insurer would pay absent the enrollee cost sharing,  
23 after accounting for rebates.



24 (b) "Health benefit plan" means any entity or program  
25 that provides reimbursement for pharmaceutical services.

26 (c) "Insurer" means any entity that provides or offers  
27 a health benefit plan.

28 (d) "Pharmacy benefit manager" means any entity as  
29 defined by Section 73-21-179(d).

30 (e) "Rebate" means:

31 (i) Negotiated price concessions, including but  
32 not limited to base rebates and reasonable estimates of any price  
33 protection rebates and performance based rebates that may accrue  
34 directly or indirectly to the insurer during the coverage year  
35 from a manufacturer; and

36 (ii) Reasonable estimates of any fees and other  
37 administrative costs that are passed through to the insurer and  
38 serve to reduce the insurer's prescription drug liabilities for  
39 the coverage year.

40 (2) An insurer that may charge enrollees cost sharing  
41 amounts that may result in excess cost sharing for covered  
42 prescription drugs shall disclose to enrollees and prospective  
43 enrollees the fact that enrollees may be subject to such excess  
44 cost sharing. Such notice shall be provided in health benefit  
45 plan documents, including but not limited to in evidence of  
46 coverage materials, formulary or preferred drug guides, and all  
47 marketing materials.



48 (3) A pharmacy benefit manager shall annually certify to the  
49 State Board of Pharmacy that, during the prior benefit year, the  
50 insurer made available to enrollees at the point of sale at least  
51 a majority (i.e., greater than fifty percent (50%)) of rebates.

52 (4) The State Board of Pharmacy shall notify the  
53 Commissioner of Insurance of any health benefit plan or pharmacy  
54 benefit manager providing pharmaceutical services that does not  
55 conform to the requirements in this section and make this  
56 information easily accessible to the public on the State Board of  
57 Pharmacy website.

58 (5) In providing the certification and disclosures required  
59 under this section, a pharmacy benefit manager shall not publish  
60 or otherwise reveal information regarding the actual amount of  
61 rebates the insurer received on a product-specific or  
62 manufacturer-specific basis. Such information is protected as a  
63 trade secret, is not regarded as a public record under Section  
64 25-61-1 et seq., and shall not be disclosed directly or  
65 indirectly. A pharmacy benefit manager shall impose the  
66 confidentiality protections of this section on any vendor or  
67 downstream third party that may receive or have access to rebate  
68 information.

69 **SECTION 2.** This act shall take effect and be in force from  
70 and after July 1, 2019.

