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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO INSURANCE -- PRESCRIPTION DRUG BENEFITS--PRESCRIPTION DRUG MARKETING

Introduced By: Senators Miller, Goldin, Calkin, Satchell, and Raptakis

Date Introduced: March 01, 2018

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 27-20.8 of the General Laws entitled "Prescription Drug Benefits" is hereby amended by adding thereto the following section:

27-20.8-3. Fair marketing of prescription drugs.

(a) Legislative purpose. Health insurance premiums are increasing in large part due to prescription drug expenses. Drug manufacturers employ direct-to-consumer marketing strategies, including coupons, discount cards, and similar offers, to disguise the true costs of high priced drugs. Controlling the application of these marketing programs, especially when lower cost alternatives are available, will help eliminate an expense that drives up the cost of health care for Rhode Islanders. These marketing strategies are prohibited for Medicare, Medicaid, and other federally-funded programs because they increase the costs to those programs. Similar protections should be provided for those paying the premiums for commercial coverage. Furthermore, where the drug makers are willing to offer these "discounts" to patients with insurance, they should provide similar assistance to help those patients without coverage. This section addresses those cost issues.

(b) A person who manufactures a prescription drug who offers or makes available to an insured in this state any discount, repayment, product voucher, or similar mechanism that provides a reduction in an individual's out-of-pocket expenses associated with their health insurance, shall permit such mechanism to be used by a person without health insurance coverage

for that prescription drug.

(c) A person who manufactures a prescription drug who offers or makes available to an insured in this state any discount, repayment, product voucher, or similar mechanism, shall publish on the discount card, coupon, voucher, or similar material, and on any accompanying advertisement and website, in an easily readable font and understandable format, a message that a generic alternative has been approved by the United States Food and Drug Administration (FDA), that the generic may be available at a lower price, and instructions for the dispensing pharmacist to inform the person obtaining the prescription about any generic alternative.

(1) For the purpose of this section, a "'generic alternative" means a drug designated to be therapeutically equivalent as indicated by the FDA's "'Approved Drug Products with Therapeutic Equivalence Evaluations." Subsection (c) of this section shall not apply to a branded prescription drug until the time that the first drug designated in the FDA's "Approved Drug Products with Therapeutic Equivalence Evaluations" as therapeutically equivalent to that branded prescription drug has been nationally available, or, the active ingredients of the drug are contained in products regulated by the FDA, are available without prescription at a lower cost, and are not otherwise contraindicated for treatment of the condition for which the prescription drug is approved.

(d) When calculating a patient's overall contribution to any out-of-pocket maximum, deductible, co-payment, coinsurance, or other cost-sharing requirement, a health plan shall include any amounts paid for by the patient or on behalf of the patient by another person. For the purpose of this section, a "person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, not-for-profit corporation, unincorporated organization, government or governmental subdivision or agency.

SECTION 2. This act shall take effect on January 1, 2019.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO INSURANCE -- PRESCRIPTION DRUG BENEFITS--PRESCRIPTION DRUG MARKETING

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This act would regulate the marketing of prescription drug manufacturers using direct-to-consumer marketing strategies including coupons, discount cards and similar offers to disguise the true costs of high priced drugs as opposed to lower cost alternatives and making these discounts available to individuals without health insurance.

This act would take effect on January 1, 2019.

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