Session of 2002

SENATE BILL No. 603

By Committee on Public Health and Welfare

2-14

AN ACT concerning prescription drug discounts and rebates.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act unless context shows otherwise:

(a) "Department" means the state department of social and rehabilitation services.

(b) "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale, and that has a labeler code from the federal food and drug administration under 21 CFR 207.20 as in effect on the effective date of this act.

(c) "Manufacturer" means a manufacturer of prescription drugs as defined in 42 U.S.C. section 1396r-8(k)(5) as in effect on the effective date of this act. The term manufacturer shall also include any subsidiary or affiliate of a manufacturer.

(d) "Participating retail pharmacy" means a retail pharmacy or other business licensed under the pharmacy act of the state of Kansas to dispense prescription drugs in this state that participates in the state medicaid program.

(e) "Secretary" means the secretary of the department of social and rehabilitation services.

(f) "Wholesaler" means a business licensed under the pharmacy act of the state of Kansas to distribute prescription drugs in this state.

Sec. 2. (a) The secretary shall negotiate discount prices or rebates for prescription drugs from drug manufacturers and labelers. A drug manufacturer or labeler that sells prescription drugs in this state may voluntarily elect to negotiate with the secretary:

(1) Supplemental rebates for the medicaid program over and above those required under 42 U.S.C. section 1396r-8; and

(2) discount prices or rebates for any other state programs that pay for or acquire prescription drugs.

(b) In negotiating rebate terms, the secretary shall take into consideration: The rebate calculated under the medicaid rebate program pursuant to 42 U.S.C. section 1396r-8, the price provided to eligible entities under 42 U.S.C. section 256b, and any other available information on

prescription drug prices, discounts and rebates.

(c) (1) The secretary shall review whether to place a manufacturer's or labeler's products on the prior authorization list for the state medicaid program and take similar actions involving prior authorization or formularies for any other state-funded or operated prescription drug program, if:

(A) The secretary and a drug manufacturer or labeler fail to reach agreement on the terms of a supplemental medicaid rebate or a discount or rebate for the prescription drug card program established by this act; and

(B) the discounts or rebates offered by the manufacturer or labeler are not as favorable to the state as the prices provided to eligible entities under 42 U.S.C. section 256b.

(2) Any prior authorization must meet the requirements of 42 U.S.C. section 1396r-8(d)(5).

(3) The names of manufacturers and labelers that enter into rebate agreements are public information and the department shall release this information to the public and actively distribute such information to doctors, pharmacists and other health professionals.

Sec. 3. (a) The department shall establish a formulary committee consisting of active health care providers to develop a formulary listing of covered drugs by the state medicaid program.

(b) The formulary committee shall evaluate drugs and drug classes based on safety, efficacy and cost data for inclusion in the state medicaid formulary. Preferred drugs shall be placed in the open formulary and non-preferred drugs shall require authorization.

(c) The formulary shall be submitted to the drug utilization review board for review and policy recommendations.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.