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MTF Bulletin

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MTF Summary of H.4891

Version as reported from the House Committee on Ways & Means

On July 22nd, [House Bill 4891](#), *An Act promoting access and affordability of prescription drugs* was released from the House Committee on Ways & Means (HWM). Amendments to the bill were due later on July 22nd with anticipated debate occurring on July 24th.

This bill is the House rewrite of PACT Act legislation engrossed by the Senate ([Senate Bill 2520](#)) on November 15th, 2023. The HWM bill includes some of the same provisions S.2520, but differs substantially. Key differences from the Senate bill include:

- Enhanced oversight of pharmacy benefit managers (PBMs);
- New requirement for CHIA to develop an annual list of up to 10 prescription drugs with a significant impact on cost;
- Significantly less authority for the Health Policy Commission (HPC) to identify drugs for special review and require an “Access and Affordability Improvement Plan”;
- No provisions related to early notification of pipeline drugs; and
- No provisions creating a new licensing process for specialty pharmacies.

MTF has prepared a comprehensive and accessible summary of H.4891, which includes the following materials:

- A high-level overview of the bill, including its recent legislative history and a breakdown of notable bill sections related to health equity; and
- A detailed section-by-section excel summary of the legislation, which includes:
 - The statutory citation of each section.
 - A summary of each section.
 - Fields indicating whether or not MTF identifies the sections as related to goals of health equity, or as having a fiscal impact to the state.
 - A field indicating whether the section is materially changed from S.2520.

Legislative History

The House is taking up major pharmaceutical and pharmacy benefit manager regulation legislation using the vehicle engrossed by the Senate in November. The Senate final version of the bill, [S.2520](#) (titled *An Act relative to pharmaceutical access, costs and transparency*), was engrossed by the Senate 39-0 on November 15th, 2023.

The process for the bill before the House began with the filing of *An Act relative to pharmaceutical access, costs, and transparency* ([S.749](#)) filed by Chair Cindy Friedman at the start of this legislative session. Chair Friedman’s bill reflected many of the provisions included in the PACT Act engrossed by the Senate last session. Last session’s version, [S.2695](#) (also titled *An Act relative to pharmaceutical access, costs and transparency*), was engrossed by the Senate 39-1 on February 10th, 2022.

MTF’s work of summarizing major pieces of health care legislation is funded by a grant from the Blue Cross Blue Shield of Massachusetts Foundation (Foundation) whose mission is to ensure equitable access to health care for all those in the Commonwealth who are economically, racially, culturally, or socially marginalized. The Foundation collaborates with public and private organizations to broaden health coverage and reduce barriers to care through grants, research, and policy initiatives.

The bill from Chair Friedman received a legislative hearing from the Joint Committee on Health Care Financing on June 6th, 2023, and was reported favorably to SWM ([S.2492](#)). A redrafted version of the bill ([S.2499](#)) was reported out of SWM on November 9th and members filed amendments to the bill, which were debated before the full Senate. After debate and all the approved amendments were included, the Senate engrossed a final version of the bill ([S.2520](#)) on November 15th. This is the first time that the House has acted on this type of legislation.

As noted above, the bill released from HWM differs from the Senate bill in a number of ways, but shares several important policy proposals and themes:

- *Inclusion of pharmaceuticals in HPC and CHIA hearing and data collection requirements* – Both bills incorporate pharmaceutical manufacturing companies (PMCs) and pharmacy benefit managers (PBMs) within the HPC Cost Trends hearing process, the cost benchmark hearing, and CHIA data collection requirements.
- *Capping cost sharing for chronic conditions* – Both bills include provisions requiring insurers to implement member cost sharing caps for one generic and one brand name drug in three chronic condition categories (including diabetes and asthma). In both bills, the generic drug would be available without copay and the copay for a 30-day supply of the brand name drug would be capped at \$25.
- *PBM licensure* – Both bills create a new general law creating a licensure requirement for PBMs within the Division of Insurance, with a three-year term for licensure and a description of the process to be developed to attain and renew ongoing licensure.

Bill Summary

Major topics of the bill include:

- **PBM Oversight** – The House bill stands out for the provisions governing PBM licensure. Like the Senate bill, the House requires all PBMs to be licensed by DOI, but the House also includes additional standards, requirements and prohibitions for PBMs. The House prohibits spread pricing and also limits a PBM’s ability to recoup or retroactively change reimbursements for claims from pharmacies that have already been processed. The House requires that PBMs provide members with pharmacies at a convenient geographic distance.
- **Incorporating Drug Price into Health Care Oversight** – A key area of consistency between the House and Senate bills is the incorporation of PMCs and PBMs within the HPC and CHIA statutes as they relate to their mission, required elements of hearings and reporting, and the ongoing collection of data.
- **Capping the Cost of Chronic Conditions** – The House bill also shares a Senate proposal requiring insurers to limit member cost sharing for insulin, as well as effective medications for asthma and a chronic heart condition.

Health Equity

For the purpose of this table, a health equity-related section includes provisions that explicitly empower a state agency to collect information, assess implications, or take action related to health equity.

Bill Section	Description
14	Directs HPC, in conjunction with CHIA, GIC, and MassHealth to conduct an evaluation of the co-payment caps established in the bill. The biannual evaluation will consider impacts on premiums, drug spending, rebates, cost-sharing, utilization and health equity impacts.
38	Requires the office of pharmaceutical policy and analysis conduct an analysis and issue a report on the future of cell and gene therapy in the commonwealth with the goal of addressing potential barriers to access that may exist for patients covered under MassHealth and other vulnerable populations.

