

## **Summary: An Act to ensure prescription drug cost transparency and affordability (H. 1133/S. 706)**

**Prescription drug price transparency:** A complex system of middlemen and rebates prevents consumers and policymakers from understanding the true drug prices being charged and the reasons behind price increases. The legislation requires drug companies to reveal their underlying costs and profits, as well as marketing expenses, allowing policymakers and the public to evaluate if the prices charged are fair and reasonable. Other transparency laws have passed in a number of states in the past two years, including CA, OR, and VT. The legislation reflects the strongest provisions of other states' laws, while allowing CHIA to draw on data available from other states to reduce administrative burdens. The bill also includes a mandate that drug manufacturers testify at the Health Policy Commission's (HPC) annual Cost Trends Hearing.

**Restrain the abuses of pharmacy benefit managers (PBMs):** The PBM business model is based on a gaping conflict of interest. PBMs earn revenue from rebates they negotiate with drug manufacturers, some of which is passed on to health plans, and some of which is retained as profit. For PBMs, the higher the drug price, the higher the rebate, and so increased drug prices generate more net revenue for the PBM. As a result, health plans, pharmacies, and consumers end up paying higher prices. The legislation seeks to control PBM abuses, including requiring state licensure and oversight, mandating rebate transparency, requiring PBMs to operate with a fiduciary duty to their health plan clients, and building on the federal law prohibition of "gag clauses" to affirmatively require pharmacists to inform consumers if purchasing a prescription at the retail price without insurance would be cheaper than the cost-sharing amount when using insurance.

**Authorize the establishment of upper payment limits for unreasonably high-priced drugs:** It is in society's interest to make affordable drugs available to everyone who needs them. In these ways, the drug industry is more akin to a public water or electricity utility. In those industries, the government steps in to set fair prices, balancing consumer interests, encouraging adequate supply and preventing windfall profits. The legislation empowers CHIA to gather data on the most expensive drugs and inform the HPC if a drug's price is excessive. The HPC would then conduct an affordability review and could establish an upper payment limit for certain drugs if prices are deemed unreasonable, taking into account both affordability for consumers and costs to the health care system. The National Academy for State Health Policy (NASHP) has developed a model bill and supporting materials for this proposal.

**Provide tools to strengthen MassHealth's ability to negotiate for lower drug prices:** Prescription drug costs are the fastest growing component of MassHealth's spending. The proposal authorizes MassHealth to negotiate supplemental rebates with drug manufacturers, using a public process to establish a target value for the drug. If negotiations are unsuccessful, MassHealth may refer a high-cost drug manufacturer to the HPC. The HPC may then require further disclosures from drug companies, hold a public hearing, and refer the matter to the Office of the Attorney General if they deem the price for a particular drug to be unreasonable or excessive.

**Educate doctors on drug effectiveness and costs:** A successful program called “academic detailing” sends trained educators to meet with doctors and provide them with objective research findings on which drugs are best for particular diagnoses and individual patient situations. The result is better care, but also reduced drug spending, as often the less-expensive drugs are more or equally effective. Since 2009, Massachusetts has had a state-funded academic detailing program, but the appropriation has not been consistent and not nearly sufficient to reach a substantial number of providers. The legislation supports a permanent authorization and funding source for the program to make sure doctors get accurate information to counter biased drug manufacturer marketing.