AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-164 is amended to read as follows:

(1) As used in this section:

(a) "Cost sharing" means the cost to an individual insured under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan;

(b) "Financial assistance" means any discount, payment, product voucher, coupon, or other assistance that is offered or provided by a drug manufacturer, nonprofit group, or other third-party to pay, or reduce, the cost of:

1. A prescription drug for an insured; or
2. An insured's cost-sharing requirements associated with a prescription drug;

(c) "Generic alternative" means a drug that is designated to be therapeutically equivalent, as indicated by the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, except that a drug shall not be considered a generic alternative unless the drug is nationally available;

(d) "Insurer" includes:

1. An insurer offering a health benefit plan providing coverage for pharmacy benefits; or
2. Any other administrator of pharmacy benefits under a health benefit plan;

(e) "Pharmacy" includes:

1. A pharmacy, as defined in KRS Chapter 315;
2. A pharmacist, as defined in KRS Chapter 315; or
3. Any employee of a pharmacy or pharmacist; and

("Pharmacy benefit manager" has the same meaning as in KRS 304.17A-161.

(2) An insurer issuing or renewing a health benefit plan on or after the effective date of this Act[January 1, 2019], or pharmacy benefit manager, shall not:

(a) Require an insured purchasing a prescription drug to pay a cost-sharing amount greater than the amount the insured would pay for the drug if he or she were to purchase the drug without coverage under a health benefit plan;

(b) Prohibit financial assistance received by an insured from being applied toward any cost sharing owed by the insured under the health benefit plan unless the prohibition is required to comply with federal law or the financial assistance is provided for a prescription drug for which there is a generic alternative;

(c) Prohibit a pharmacy from discussing any information under subsection (3) of this section; and

(d) Impose a penalty on a pharmacy for complying with this section.

(3) A pharmacist shall have the right to provide an insured information regarding the applicable limitations on his or her cost-sharing pursuant to this section for a prescription drug.

(4) Any amount paid by, or on behalf of, an insured under subsection (2)(a) and (b) of this section shall be attributable toward any annual out-of-pocket maximums under the insured's health benefit plan. If in any situation the requirements of this subsection are invalid or incapable of being enforced due to conflict with federal law, the requirements of this subsection shall remain in full force and effect with respect to all insurers and in all situations where no such conflict exists.

(5) Subsection (2)(b) and subsection (4) of this section shall not apply with respect to health coverage provided to a state employee as defined in KRS 18A.225.
Section 2. This Act takes effect January 1, 2021.