

Rx Rebates: HB 2180 Would Prevent Overall Prescription Savings

TAHP Opposes HB 2180 because the mandate limits how employers can use rebates to lower costs for all employees. As a result, it would increase the overall cost of prescription drug coverage.

The Problem

TAHP agrees something must be done to lower prescription drug prices. However, taking away employer flexibility to leverage rebates is the wrong approach. Currently, employers can use drug rebates to collectively lower the cost of health insurance for all members, helping to keep coverage affordable. Point-of-sale rebates, however, would be delivered inconsistently and arbitrarily. Some members might see big, individual rebates on occasion, but the overall savings could not be applied to keep the cost of coverage low. To address prescription drug costs, insurers need more—not less—flexibility. Requiring point-of-sale rebates would subject covered families to higher premium costs.

It's About Choice

Employers should have the choice of how to best use rebate savings, including lowering premiums for all employees, adding more generous benefits, or further reducing employee costs at the pharmacy counter. Those choices have trade offs, and a point-of-sale mandate would actually increase drug costs overall.

Our ask: We urge you to amend the bill to instead require that the full amount of the rebate go to reduce costs or premiums for the policyholder, which could be either an individual or an employer that in most cases today pays over 80% of employee premiums.

This proposal aligns with the **House Select Committee on Health Care Reform's interim recommendation: "Consider opportunities to ensure rebates are used to lower the cost of coverage"** This recommendation ensures that rebates are always going to lower costs, but reduces the unintended consequences of higher premiums for all Texans.

Point of Sale rebate mandates significantly increase premiums and drug costs

- The mandate benefits a very small number of patients while preventing the overall savings that reduce premiums today. Under a point-of-sale model, a few patients may see their costs go down at the pharmacy counter for one drug, but premiums and out-of-pocket costs go up for all.
- Moreover, this practice would reduce Pharma's incentive to lower the prices of their drugs by further masking the costs of high-priced, brand-name drugs.
- An independent fiscal review estimated a point-of-sale rebate bill in California would increase health insurance premiums by \$200 million annually.

- The review also found that a point of sale rebate mandate would only help 4% of enrollees but would increase premiums for 100% of enrollees. The California Senate Appropriations Committee refused to advance that bill due to the increased premium cost.
- The [Congressional Budget Office \(CBO\)](#) estimated that a Medicare point-of-sale rebate mandate would increase premiums by \$43 billion (25%) over a decade and federal spending by \$137 billion.
- Rebates reduce the cost of prescription drug coverage at the Teacher Retirement System by 30%. Without these savings, Texas would have to replace this cost with taxpayer dollars or by substantially increasing premiums to active and retired teachers.

Employers should decide:

- Employers cover the bulk of premiums for employees—more than 80%. They should be able to choose what to do with rebates. Point-of-sale rebate plans already exist today.
- In 2019 a survey found that one-in-five large employers use point-of-sale (POS) rebates in their pharmacy benefit plans and another 40% of employers were considering using POS rebates in the future.
- For some employers, offering or requiring point-of-sale rebates could be the best option for a patient population; for some employers it's not.

Point of sale rebates do not address the real problem of high prices set by Pharma:

Everyone should be able to get the medications they need at a cost they can afford. But drug prices are out of control, and Pharma continues to raise them year after year.

Health insurance providers are Americans' bargaining power, negotiating lower drug prices for everyone. That includes negotiating rebates for drugs and maximizing the impact for all plan enrollees by passing on those savings directly to patients and consumers through lower out-of-pocket costs and premiums.

Pharma argues rebates should only go to patients at the pharmacy counter, instead of passing on lower costs to everyone through lower premiums. Unfortunately for patients, this proposal will only make health care more expensive—and undermines affordability and access for everyone while Pharma continues to charge high prices for medications unabated.

Request for Technical Change:

The legislation uses a new definition of "rebate" different than what exists in the insurance code today. We are concerned the definition change could include administrative costs. A simple fix is to instead reference the existing definition from TIC 1369.501.