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National Council of Insurance Legislators (NCOIL)

Value Based Purchasing Model Act

**Sponsored by Sen. Mary Felzkowski (WI)*

**Draft as of March 13, 2024. To be introduced during the meeting of the NCOIL Health Insurance & Long Term Care Issues Committee on April 14, 2024.*

Section 1. Title

This Act shall be known and cited as the “[State] Value Based Purchasing Act.”

Section 2. Purpose

The purpose of this Act is to allow the State Medicaid Agency to enter into a value-based purchasing arrangement with a drug manufacturer for purposes of the Medical Assistance program. Through these arrangements, the State will both expand access to effective treatments and lower costs by tracking and paying for value.

Section 3. Definitions

(A) “Manufacturer” means a person licensed or approved by the federal food and drug administration to engage in the manufacture of drugs or devices, consistent with the definition of “manufacturer” under the federal food and drug administration's regulations and interpreted guidances implementing the federal prescription drug marketing act.

(B) “Value-based purchasing arrangement” means an arrangement for the Medical Assistance program by written agreement with a manufacturer based on agreed upon metrics to which the department and the manufacturer agree in writing and may include any of the following:

1. Rebates
2. Discounts
3. Price reductions
4. Risk sharing
5. Reimbursements
6. Payment deferrals or installment payments

7. Guarantees
8. Shared savings payments
9. Withholds
10. Bonuses
11. Any other thing of value

Section 4. Implementation

(A) The State Medicaid Agency may enter into a value-based purchasing arrangement for the Medical Assistance program by written agreement with a manufacturer.

(B) Nothing in this subsection may be interpreted to require a manufacturer or the State Medicaid Agency to enter into an arrangement described under Section 4(A).

(C) Nothing in this subsection may be construed to alter or modify coverage requirements under the Medical Assistance program.

(D) If the State Medicaid Agency determines it is unable to implement this subsection without a waiver of federal law, state plan amendment, or other federal approval, the department shall request from the secretary of the federal department of health and human services any waiver of federal law, state plan amendment, or other federal approval necessary to implement this subsection.

(E) If the federal department of health and human services does not approve a waiver of federal law, state plan amendment, or other federal approval under this paragraph, the department is not required to implement this subsection.

Section 5. Effective Date

This Act shall take effect xxxxxxxx.