

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

May 9, 2019

The Honorable Corey Stapleton
Secretary of State
State Capitol
Helena, MT 59601

Dear Secretary Stapleton:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 71 (SB 71), "AN ACT ESTABLISHING REQUIREMENTS FOR PRESCRIPTION DRUG BENEFITS OFFERED UNDER A HEALTH BENEFIT PLAN; ESTABLISHING THE METHOD OF DETERMINING THE PAYMENT FOR BRAND-NAME AND GENERIC PRESCRIPTION DRUGS; REQUIRING HEALTH INSURANCE ISSUERS TO USE COMPENSATION FOR PRESCRIPTION DRUGS TO LOWER CONSUMER HEALTH INSURANCE COSTS; PROHIBITING CONFLICTS OF INTEREST IN DEVELOPING FORMULARIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND PROVIDING A DELAYED EFFECTIVE DATE."

I appreciate and respect the sponsor's commitment to lowering prescription drug costs. I share that commitment and today will sign a range of bills designed to lower those costs for Montanans, as well as lower health insurance and healthcare costs more broadly.

Unfortunately, SB 71 is likely to do just the opposite of what the sponsor intends: it will increase costs.

First, SB 71 may put Montanans served by regional or nonprofit health plans at a higher risk of increased prescription drug prices. Senate Bill 71 cuts pharmacy benefit managers out of the rebate process, requiring that rebates go directly to health insurers. While this may seem like a good idea on the surface, in practice it means that smaller and nonprofit health insurance plan customers can no longer take advantage of these rebates. The result is higher drug costs for plan members.

Second, SB 71 will increase the administrative costs for regional or nonprofit health plans. Section 7 of the bill, for example, requires health plans to review brand-name drugs to determine whether they will be covered. These plans have to do so within 90 days of approval by the U.S. Federal Food and Drug Administration, rather than the 180-day period that federal law requires. Halving the time to review will lead to increased costs, which are likely to be passed on to insurance customers in the form of higher plan prices.

Third, SB 71 reduces many rural Montanans' choices when it comes to accessing their prescriptions. Senate Bill 71 prohibits certain mail-order pharmacies. Many Montanans who do not have easy access to brick-and-mortar pharmacies rely on the mail to obtain their prescription drugs. Banning certain mail-order pharmacies could make it harder for Montana seniors, Montanans living in rural areas, and others to access the drugs they need. It could also lead to more rural counties in Montana that lack insurance plan choices. Choice is the touchstone of competition and reduced costs, but SB 71 would restrict it in certain circumstances.

Finally, SB 71 is directed only at the individual market for insurance. This is already the most volatile of the health insurance markets. Upward pressure on prescription drug prices for these plans could lead to significant increases in insurance prices—either driving regional and nonprofit plans out of business or forcing Montanans off of their coverage because it costs too much. Senate Bill 125, which I recently approved, is designed to stabilize the individual market to lower insurance premiums for Montanans. It passed the legislature with bipartisan support. But the defects with SB 71 could offset all the savings generated by SB 125—to the detriment of Montana insurance consumers.

For these reasons, I veto SB 71.

In the meantime, I have signed or look forward to signing the following bills to address health care costs in Montana:

- SB 83, which gets at the problem directly by applying strict protections from certain pharmacy benefit manager practices;
- SB 125, the reinsurance bill to lower individual insurance premiums;
- SB 270, which prohibits pharmacy benefit managers from requiring pharmacies to charge consumers more in copayments than it costs to make a drug; and
- SB 335, which protects federally-qualified health centers from discrimination in prescription drug pricing.

Sincerely,



STEVE BULLOCK
Governor

cc: Legislative Services Division
Scott Sales, President of the Senate
Greg Hertz, Speaker of the House