

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 962 - A

Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

Prepared by: Kim To
Reviewed by: Linda Ames, Doug Wilson, Laurie Byerly
Date: 5/24/2011

Measure Description:

Requires state agencies to participate in Oregon Prescription Drug Program subject to exceptions.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Corrections (DOC), Oregon Youth Authority (OYA), counties, cities

Summary of Fiscal Impact:

See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

Senate Bill 962 A-Engrossed requires state agencies to participate in the Oregon Prescription Drug Program (OPDP) subject to certain exceptions. The bill authorizes the administrator of OPDP to negotiate with prescription drug manufacturers on the extension of drug manufacturer rebates to all participants in the program that purchase prescription drugs directly or indirectly for medical assistance recipients. The measure directs the Oregon Health Authority (OHA) to apply to the Centers for Medicare and Medicaid Services for any approval necessary to obtain federal financial participation in the costs of drug purchased through OPDP. The bill is operative upon receipt by OHA of federal approval. If no federal approval is required, the bill is operative on January 1, 2012. OHA and any state agency that will participate in the program may take action before the specified operative dates.

The bill requires state agencies that directly or indirectly purchase prescription drugs, including agencies that dispense prescription drugs directly to persons in state-operated facilities, to participate in OPDP. State agencies exempted from this requirement include:

1. Agencies that receive federal Medicaid funds and are responsible for implementing the state's medical assistance program.
2. Agencies that can demonstrate to the administrator that the availability of federal programs or the agency's other purchasing arrangements will result in greater discounts and aggregate cost savings than would be realized through OPDP.
3. Agencies that contract with a health maintenance organization to provide coverage that includes prescription drugs.

At this time, the full fiscal impact of this bill is indeterminate depending on the purchasing power and competitiveness of OPDP.

If this bill passes, OHA anticipates establishing an Operations & Policy Analyst position (\$220,132 Other Funds and 1.00 FTE) to work with state agencies to provide cost-benefit analysis in order to determine whether the agencies are required to participate in OPDP or if the agencies falls into one of the exemption categories. OHA anticipates this cost to be covered by transfers from participating agencies.

Not including the Oregon Health Authority, the two state agencies that are the largest purchasers of prescription drugs are the Department of Corrections and the Oregon Youth Authority. Currently, the

Department of Corrections (DOC) purchases medications required to meet inmate needs through the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP). MMCAP, created in 1985, is a free, voluntary group purchasing organization operated and managed by the State of Minnesota's Department of Administration for government healthcare facilities. MMCAP is currently comprised of 46 states and the Cities of Chicago and Los Angeles, with thousands of participating facilities. The goal of MMCAP is to provide, through volume contracting and careful contract management, the best value in pharmaceuticals and related products to its members - eligible governmental health care facilities. MMCAP member facilities purchase over \$1 billion per year and have national account status with all of the major brand name and generic pharmaceutical manufacturers. MMCAP discounts are based on the total purchases of all of a particular state's participants. Within the state of Oregon, DOC and several Oregon county and municipal governments participate. Withdrawal of DOC participation would reduce the "Oregon Purchase" and would negatively impact the pricing available to the other Oregon participants. Furthermore, DOC is currently working with the Oregon Youth Authority (OYA) to develop an interagency agreement that enables DOC to provide pharmacy services and supplies to OYA. In addition, DOC is working with OPDP and their providers to see if there is potential for greater savings than under DOC's current participation with MMCAP.

Note that SB 962 A-Engrossed exempts any agency that can demonstrate that its purchasing arrangements will result in greater discounts and aggregate cost savings than would be realized through OPDP. Although currently state agencies are working with OHA to participate in OPDP, at this time, the potential cost savings, if any, that can be realized by DOC, OYA, the Public Employees' Benefit Board (PEBB), the Oregon Educators Benefit Board (OEBC) and other state agencies by contracting with OPDP cannot be quantified.