

FISCAL IMPACT OF PROPOSED LEGISLATION

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

Measure: HB 2123 - B

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Kim To
Reviewed by: Linda Ames, Susie Jordan
Date: 6/6/2013

Measure Description:

Requires Department of Consumer and Business Services to register pharmacy benefit managers.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Consumer and Business Services (DCBS)

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:

House Bill 2123 B-Engrossed modifies the Insurance Code. The measure:

- Defines claim, insurer, pharmacist, pharmacy, third party administrator, and pharmacy benefit manager.
- Requires a pharmacy benefit manager (PBM) to register with the Department of Consumer and Business Services, and to annually renew the registration. The bill provides that the registration fee and renewal does not exceed \$50, and allows DCBS to adopt fees by rule.
- Establishes limitations and requirements for an audit of a pharmacy by a PBM, an insurer, a third party administrator, a state agency or a person that represents or is employed by one of those entities. The audit limitations and requirements in the bill apply to contracts between pharmacies and PBMs that are entered into, renewed or extended on or after the effective date of the bill.
- Imposes requirements on a PBM relating to their list of drugs for which maximum allowable costs have been established. The requirements related to the list of drugs for which maximum allowable costs have been established become operative on January 1, 2015. Limits the applicability of an adjustment made in response to a critical access pharmacy when a critical access pharmacy appeal of a reimbursement determination is upheld. Allows a network pharmacy to appeal a maximum allowable cost only if the reimbursement for the drug is less than the net amount that the network pharmacy paid to the drug supplier.

Oregon Health Authority (OHA)

The full fiscal impact of this bill on the Oregon Health Authority's Oregon Educators Benefit Board (OEBB) is indeterminate. The bill requires that PBMs apply individual pharmacy reimbursement readjustments on a network-wide basis. OEBB contracts with a PBM. According to OEBB's largest health insurer, Moda Health, this requirement has the potential of inflating costs across the network. Inflated costs would impact OEBB through increased medical prescription drug rates. Although the exact premium increase is indeterminate at this time, Moda Health predicts the fiscal impact could result in a 0.5% increase in rates. Based on January 2013 premium costs and 2012 enrollment over three month period, OEBB calculates that a 0.5% increase in premium rates would result in an estimated fiscal impact of roughly \$542,777 Other Funds Non-Limited in the 2013-2015 biennium.

Note that the Oregon Educators Revolving Fund (ORS 243.884) authorizes the Oregon Health Authority's Oregon Educators Benefit Board to collect employee and employer contributions for pass-through of benefit premiums to insurance carriers for eligible members. Therefore, any proposed legislation resulting in a fiscal impact on revenues or expenditures with regard to insurance premiums

provided by OEGB will impact any educational entity that has mandated or elective coverage under OEGB. This includes school districts, community colleges, education service districts and some charter schools.

Department of Consumer and Business Services (DCBS)

The fiscal impact of this bill on the Department of Consumer and Business Services is indeterminate, but anticipated to be absorbable. The department reports that existing law requires a person who transacts business as a third party administrator (TPA) to be licensed through DCBS. A third party administrator is defined as a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of this state or residents of another state from offices in this state, in connection with life insurance or health insurance coverage. Therefore some TPAs also conduct pharmacy benefit manager activities. Currently DCBS licenses 296 TPAs. It is unknown how many of these existing TPAs will register as PBMs, or how many other PBMs will be subject to registration.

Should this bill become law, DCBS will be required to: (1) conduct rulemaking to develop the registration form and set fees; (2) create and maintain the registration system; (3) assure that all PBMs are registered and that registrations are renewed; and (4) monitor and carry out compliance and enforcement activities. Extrapolating from historical enforcement data on TPAs, DCBS assumes that its Insurance Division can perform these duties using existing staff and resources. However, if the enforcement activities of this bill or if the cumulative impact of legislation affecting the enforcement of the Insurance Code is greater than anticipated, DCBS may need to return to seek additional resources in the event that reprioritization of duties and responsibilities of existing staff is not feasible.