

HB 2690 STAFF MEASURE SUMMARY

House Committee On Health Care

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Meeting Dates: 2/19

WHAT THE MEASURE DOES:

Defines terms. Prohibits commercial insurers, pharmacy benefit managers (PBMs), or third-party administrators (TPAs) from restricting a consumer's access to information about the cost for prescription drugs or preventing pharmacies or pharmacists from informing consumers about less costly drug alternatives. Requires commercial insurers, PBMs, and TPAs to apply the price paid by a consumer to purchase a covered drug to the consumer's deductible or out-of-pocket maximum as specified by the insurance policy.

REVENUE: May have revenue impact, but no statement yet issued.

FISCAL: May have fiscal impact, but no statement yet issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Pharmacy benefit managers (PBMs) administer drug benefit programs according to contractual relationships between manufacturers, wholesalers, health insurers, and/or employers. PBM services include processing and analyzing prescription claims, contracting with a network of pharmacies, and developing and managing formularies and prior authorization programs. There are currently more than 40 entities registered as PBMs doing business in Oregon. Nationally, PBMs manage the drug benefits for an estimated 95 percent of all patients with drug coverage. Legislation enacted in Oregon in 2017 (House Bill 2388) authorized the Department of Consumer and Business Services to deny, revoke, or suspend a PBM's registration under specific conditions.

As of 2018, 28 states have enacted legislation to ban "gag clauses," referring to PBM contracts with pharmacies that prohibit pharmacists from informing customers that they can save money by paying cash for less-expensive options rather than using their health insurance, or selling a more affordable alternative to the insured if one is available (e.g., a generic product instead of a brand-name drug). The intent is to provide pharmacists with the ability to inform a consumer as to the amount of the insured's cost share for a prescription drug. States are also exploring the issue of prescription drug overpayment in which an insured patient's copayments exceed the cost of the drug to their health plan or PBM (referred to as "co-pay clawbacks").

House Bill 2690 seeks to increase transparency at the retail pharmacy level for consumers.