

HB 2840 -1 STAFF MEASURE SUMMARY

House Committee On Health Care

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Meeting Dates: 3/21, 4/4

WHAT THE MEASURE DOES:

Establishes prohibitions for pharmacy benefit managers (PBMs) registered in Oregon. Prohibits PBMs from requiring an insured person to fill or refill a prescription using a mail-order service. Prohibits PBMs from not allowing a pharmacist or pharmacy to provide information to a patient regarding the patient's cost share for a prescription drug; sell an insured person a lower cost alternative; or offer or provide an ancillary service. Prohibits a pharmacist or pharmacy from charging or collecting from an insured person a copayment that exceeds what the pharmacist will be reimbursed by the PBM. Prohibits PBMs from retaliating or penalizing a pharmacist or pharmacy.

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

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

ISSUES DISCUSSED:

- PBM contracts that prohibit retail pharmacies from offering mail order prescriptions
- Mandating mail order by PBMs, including specialty drugs for enrollees
- Costs associated with mail order compared to brick and mortar retail pharmacies
- History of proposed and enacted PBM legislation in Oregon
- Independent and community pharmacies, financial viability, low reimbursement rates, and access to pharmacies by area residents
- Proprietary contracts between PBMs and pharmacies; nondisclosure of contractual terms including reimbursement rates
- Fraudulent prescriptions, reimbursement from PBMs to pharmacies, incorrect payment recoupment, and PBM adjudication fees (Direct and indirect remuneration or DIR fees)
- Definition of specialty drugs
- Similar legislation in other states, specifically Georgia and Louisiana

EFFECT OF AMENDMENT:

-1 Authorizes the Department of Consumer and Business Services to adopt rules to implement measure.

BACKGROUND:

Pharmacy entities dispense pharmaceutical products directly to consumers. Pharmaceutical products are ordered by the pharmacy and delivered by a wholesale distributor or purchased directly from a manufacturer. Licensed pharmacists dispense products to consumers according to prescriptions received by written note or electronic transmission. Pharmacies can be generally separated into three pharmacy types:

- Retail – local entities that are open to the public. These can be national corporate chain pharmacies, independently owned individual stores, or regional chains. Currently there are 1,377 retail pharmacies licensed in Oregon.
- Specialty – organizations that are not open to the general public but contract with payers or manufacturers for the delivery of specialty drugs which can require special storage and handling. These entities can be owned by a pharmacy benefit manager (PBM), or retail pharmacy, or be independently owned. Specialty pharmacies may deliver medications directly to a retail pharmacy location for patients to access.

HB 2840 -1 STAFF MEASURE SUMMARY

- Mail-order – organizations that deliver pharmaceutical products through the mail. These pharmacies can be owned by a wholesale distributor, chain drug store, PBM, insurance company, or be independently owned.

Pharmacy benefit managers are intermediaries between health insurers, pharmacies, wholesalers, and manufacturers. Most health insurers contract with PBMs to provide third-party administrative services for insurer's pharmacy benefit, with the goal of cost containment. PBM services can include claims processing, formulary and benefit design (tiers, utilization management, cost-sharing), pharmacy network contracting, and rebate negotiation with manufacturers. Additional services PBMs provide include administration of mail-order or specialty pharmacy services. Insurers can choose if and what services they contract with PBMs to perform on their behalf. In Oregon, 55 PBMs are currently registered with the Department of Consumer and Business Services.

House Bill 2840 establishes prohibitions between pharmacy benefit managers and pharmacies in Oregon.