

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2840 - 2

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office

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

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Measure Description:

Establishes prohibitions for registered pharmacy benefit managers.

Government Unit(s) Affected:

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

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

Oregon Health Authority

Fund Type	2019-21 Biennium	2021-23 Biennium
Other Funds	10,896,021	14,528,027
Total Funds	\$10,896,021	\$14,528,027

Analysis:

The measure would prohibit registered pharmacy benefit managers (PBMs) from engaging in certain conduct in their interactions with customers and pharmacies, including assessing adjudication fees and the loss of dispensing fees when the patient cost share is more than the reimbursement. To enforce these rules, the measure would grant the Department of Consumer and Business Services (DCBS) authority to adopt administrative rules. PBMs would be required to allow pharmacies in their network to distribute drugs through the mail and prohibited from requiring a patient signature as proof of delivery. PBMs would be allowed to require that specialty drugs be purchased through specialty pharmacies, but they would be prohibited from imposing unreasonable requirements on specialty pharmacies. The measure would prescribe stronger and more specific standards for PBMs’ maximum allowable costs (MAC) pricing and appeals. The MAC pricing list would be required to be available in an electronic format with specific informational elements. PBMs would be required to provide the opportunity to appeal if the reimbursement provided is less than the cost of the drug to the pharmacy. PBMs would be required to demonstrate that the drug was generally available for purchase at the lower price if that was the basis of a lower reimbursement. The measure would specify options for PBMs to compensate pharmacies when an appeal is upheld. DCBS would be authorized to deny, revoke or suspend a PBM license for certain violations of the measure. The measure would apply to contracts between pharmacies or pharmacists and PBMs entered into, renewed or extended after the measure’s effective date. The measure would take effect on January 1, 2020.

Department of Consumer and Business Services (DCBS):

DCBS anticipates that it would take the agency approximately 60 hours in the 2019-21 biennium to adopt administrative rules to implement and enforce this measure. DCBS anticipates that it would be able to adopt these rules with its existing staff and resources. For that reason, the measure would have a minimal fiscal impact on DCBS.

Oregon Health Authority (OHA):

Moda Health, the largest insurer of the Oregon Educators Benefit Board (OEBB), estimates that the measure would increase premium rates by 0.27 percent (0.27%) for the OEBB medical and prescription drug coverage plans. The estimate is based on the removal of a PBM's ability to assess adjudication fees and the loss of dispensing fees when the patient cost share is more than the reimbursement. Assuming the premium increase would apply to all OEBB plans, it would increase premiums by an estimated \$2,967,854 in the 2019-21 biennium and by \$3,957,138 the 2021-23 biennium.

Providence Health, the largest insurer of the Public Employees Benefit Board (PEBB), estimates that the measure would increase premium rates by 0.6 percent (0.6%) for the PEBB medical and prescription drug coverage plans. Providence estimates that there would be a 3.0 percent (3.0%) increase in drug costs if mail-order prescriptions were prohibited. This would increase the per member cost by \$2 to \$4 per month. Assuming the premium increase would apply to all PEBB plans, it would increase premiums by an estimated \$7,928,167 in the 2019-21 biennium and by \$10,570,889 the 2021-23 biennium.

In total, the measure would increase OEBB and PEBB premiums by \$10.9 million in the 2019-21 biennium and by \$14.5 million in the 2021-23 biennium, respectively, according to the estimates provided by OHA. Although these costs are budgeted in OHA as Other Funds, the costs related to PEBB impact the premiums paid by state agencies and universities, whereas the costs for OEBB primarily impact the premiums paid by the K-12 school system.

The measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact on OHA.