

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 872 - 8**80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office**Only Impacts on Original or Engrossed
Versions are Considered Official**Prepared by: Kim To
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Date: June 7, 2019**Measure Description:**

Requires pharmaceutical manufacturers to report to Department of Consumer and Business Services total cost of patient assistance programs and information on financial assistance provided to pharmacies, government agencies and advocacy organizations.

Government Unit(s) Affected:

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA), Department of Corrections (DOC), Oregon Youth Authority (OYA)

Summary of Fiscal Impact:

Quantifiable costs related to the measure will require budgetary action. In addition, the fiscal impact of this measure contains elements that are indeterminate, at this time - See analysis.

Summary of Expenditure Impact:

| | 2019-21 Biennium | 2021-23 Biennium |
|---|------------------|------------------|
| Oregon Health Authority - General Fund | | |
| Personal Services | 276,172 | 368,228 |
| Services and Supplies | 114,362 | 78,806 |
| Total General Fund - Oregon Health Authority | \$390,534 | \$447,034 |
| Oregon Health Authority - Other Funds | | |
| PEBB & OEBC Annual Drug Cost and Utilization Report | 40,000 | 40,000 |
| Total Other Funds - Oregon Health Authority | \$40,000 | \$40,000 |
| TOTAL FUNDS - Oregon Health Authority | \$430,534 | \$487,034 |
| Positions | 2 | 2 |
| FTE | 1.50 | 2.00 |

Analysis:

SB 872 with the -8 amendment requires:

- State-sponsored plans, including the Public Employees' Benefit Board (PEBB) and the Oregon Educators Benefit Board (OEBC), to: (1) contract with pharmacy benefit managers and third-party administrators on a fee-only-basis; and (2) require these contracted pharmacy benefit managers or third-party administrators to pass through to the boards rebates, incentives, or discounts offered by pharmaceutical manufacturers.
- Medical providers to include specified information about dispensed prescription drugs in medical billing. Medical providers would also be required to submit this information to the Oregon Health Authority (OHA). The authority would be required to use this information as part of its public reporting about health care costs via its website.
- Health insurance carriers offering group and individual health benefit plans to: (1) publish specified formulary information online; (2) notify members that they may purchase prescription drugs at the pharmacy at retail price if the retail price is lower than the consumer's out-of-pocket cost for the drug; and (3) provide 60-day notice of formulary changes to members who would be adversely affected.

- OHA, PEBB, OEBB, the Department of Corrections (DOC), and the Oregon Youth Authority (OYA) to report annually to Legislature about each agency’s expenditures for prescription drugs. OHA’s Pharmacy and Therapeutics Committee would be required to evaluate this information as part of its determination of any preferred drug list.
- Patient advocacy groups with annual gross receipts of more than \$50,000 and registered lobbyists to report specified information about financial contributions from pharmaceutical supply chain entities to the Government Ethics Commission.
- Pharmacy Benefit Managers (PBM) to: (1) report to the Department of Consumer and Business Services (DCBS) information about rebates, incentives and fees to plan sponsors every three months, including information about the amount of these payments that was passed along to plan sponsors; and (2) submit reports to DCBS detailing the rebates, fees, and reimbursements paid for drugs with a price of \$100 or more for a month’s supply or a course of treatment lasting less than a month, and drugs for which the PBM receives an insurer reimbursement of 25% more than the average reimbursement the PBM provides to a pharmacy. The bill authorizes DCBS to prescribe the form and manner of these reports. In addition, PBMs would be prohibited from interfering with the right of consumers to be educated about the price of prescription drugs.
- Prescription drug manufacturers to (1) disclose wholesale drug prices in advertisements; and (2) to report additional information to DCBS, including the total cost of patient assistance programs to the manufacturer, and information regarding any financial assistance, other than rebates, incentives and discounts, provided by the manufacturer to pharmacies, government agencies, or patient advocacy organizations. The exemption from disclosure for drug manufacturer reports would be expanded to exempt proprietary information, not just trade secret information.
- The Task Force on Fair Pricing on Prescription Drugs to evaluate legislation enacted in the 2019 regular session that was intended to increase transparency and evaluate additional strategies to reduce the cost of prescription drugs for Oregonians.

Oregon Health Authority (OHA)

OHA estimates the fiscal impact of this bill to be \$430,534 Total Funds [\$390,534 General Fund + 40,000 Other Funds] and two positions (1.50 FTE) for the 2019-21 biennium; and \$487,034 Total Funds [\$447,034 General Fund + 40,000 Other Funds] and two positions (2.00 FTE) for the 2021-23 biennium. Passage of this bill is anticipated to have an impact on the Health Analytics All Payers All Claims (APAC) program and the Oregon Prescription Drug Program (OPDP). Currently, APAC has no infrastructure or process in place to collect the information from medical providers required by this bill. The fiscal impact includes salary and related costs for two permanent full-time positions (one Operations and Policy Analyst 4 position and one Administrative Specialist 2 position) to collect, maintain, process, and report on data for new submitters. Also included in the fiscal impact amount is \$50,000 to cover increased APAC contract costs.

In addition to the above quantifiable costs, if passage of this bill results in coordinated care organizations and other state-sponsored programs leveraging Oregon Prescription Drug Program, OHA will need additional staff and resources to service the participating entities.

Public Employees’ Benefit Board (PEBB), Oregon Educators Benefit Board (OEBB)

PEBB and OEBB report that they currently comply with the fee-only incentive schedule for contracted pharmacy benefit managers and the pass-through rebates, discounts and incentives to the board provisions of the bill. PEBB and OEBB estimates the cost of producing the annual drug cost and utilization report required by the bill to be approximately \$20,000 Other Funds per biennium for each entity.

Department of Consumer and Business Services (DCBS)

The bill’s requirement that drug manufacturers annually register with DCBS and expanded reporting requirements for pharmacy benefit managers is anticipated to increase the workload for the prescription drug pricing transparency program (DPTP) administered by DCBS. The agency anticipates the need for additional staff to address this workload as well as IT resources to modify the existing system to accommodate the expansion of reported data. DCBS also expects an increase in Department of Justice (DOJ) costs due to an increase in the

number of submitted reports that will likely require legal review of trade secret claims. If after the bill is operational, DCBS identifies quantifiable and unmanageable workload and costs directly related to the bill, the agency may seek a budget adjustment.

Oregon Government Ethics Commission (OGEC)

OGEC anticipates that it will need to modify its electronic filing system to comply with the provision requiring patient advocacy groups with a budget of more than \$50,000 and registered lobbyists to report specified information about financial contributions from pharmaceutical supply chain entities to OGEC. The Commission anticipates including this work order as part of its master agreement with NICUSA. OGEC is projected to have a sufficient working capital balance to cover the annual fee increase of approximately \$33,000. However, should the estimated costs be higher than expected, or the cumulative impact of multiple bills requiring modifications to OGEC's electronic filing system reduce available funds, the agency may need to request a budget adjustment.

Department of Corrections (DOC), Oregon Youth Authority (OYA)

The fiscal impact of this bill to DOC and OYA is minimal. DOC and OYA will use existing staff and resources to report annually to the Legislature about each agency's expenditures for prescription drugs.