

April 26, 2021

The Honorable Nancy Nathanson, Chair  
House Committee on Revenue  
Oregon House of Representatives  
900 Court St NE, Room 160  
Salem, OR 97301



RE: House Bill 2462 - Opposed

Dear Chair Nathanson and members of the Committee:

Moda Health presents this letter in opposition to House Bill 2462 because we believe it would set unnecessary legal burdens and lead to higher prescription drug costs for Oregonians.

Moda Health provides dental, medical and pharmacy insurance and administrative services in Oregon, Washington and Alaska. More than 1.2 million people receive prescription drug benefits or coverage via Moda, including over 200,000 members of the Oregon Educators Benefits Board, Public Employee Benefits Board, SAIF, Eastern Oregon Coordinated Care Organization, and other self-insured and government programs statewide, plus tens of thousands of underinsured and uninsured residents who benefit from the Oregon Prescription Drug Program discount card.

Specific reasons for Moda's opposition to this bill are as follows:

- Section 2 would result in higher costs for payers like Moda since it places a redundant burden on PBMs to assume, not only the PBMs corporate activity tax responsibility, but potentially, the corporate activity tax for prescription transactions owed by pharmacies. This duplicate tax burden would likely be passed on to payers and result in higher pharmacy costs for groups and individuals.
- Section 3 includes provisions considered to be "retaliatory" but are in fact activities that may occur in the normal course of business and therefore cannot legally be considered retaliation. This section would create confusion and invite unnecessary litigation which could lead to higher costs for payers, patients, and pharmacies.
- HB 2462 is overly vague and does not establish a method for a PBM or payer to determine if a new tax or fee has exceeded 0.3 percent of the pharmacy's pharmaceutical sales. Pharmacies contract with many PBMs and payers in a state. There is no central method to determine when the 0.3 percent threshold has been met.



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- There are more than 600 licensed pharmacies in Oregon and more than 60 PBMs and several PBMs that contract with those pharmacies at the individual location and/or chain level. Keeping all or even a reasonable fraction of those thousands of contracts current to meet the bill's provisions in relation to new taxes or fees would (a) create large administrative costs and burdens for pharmacies, PBMs, and PSAOs, and (b) effectively be almost impossible.
- The bill would increase prescription drug costs since it requires PBMs to pay pharmacies more, which could have a cost impact on public programs, such as Medicaid, OEBB and PEBB.
- The requirement that insurers offering individual or group health benefits plans file their PBM contracts and pharmacy network reimbursement rates with DCBS to determine whether reimbursements are fair may increase prescription drug costs since it will remove some of the negotiating leverage payers use to achieve preferential or differential network rates in their PBM contracts.

Moda Health is committed to ensuring broad pharmacy access for our members and doing what we can to help manage prescription drug costs. HB 2462 would work against these objectives.

For these reasons, Moda Health opposes passage of HB 2462. We appreciate the opportunity to comment on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Judge", written in a cursive style.

Robert Judge  
Director, Pharmacy Services