

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3013 - A6

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Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Requires pharmacy benefit managers to be licensed by Department of Consumer and Business Services beginning January 1, 2024, modifies definition of "pharmacy benefit manager" and imposes new requirements on pharmacy benefit managers.

Government Unit(s) Affected:

Department of Consumer and Business Services, Oregon Health Authority

Summary of Fiscal Impact:

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

Summary of Expenditure Impact:

The measure has an estimated fiscal impact of \$1,107,679 Other Funds and five positions (4.40 FTE) in 2023-25 for the Department of Consumer and Business Services; the fiscal impact on the Oregon Health Authority is currently indeterminate.

Analysis: The measure requires pharmacy benefit managers (PBM) to obtain a license from the Department of Consumer and Business Services (DCBS). A PBM is defined as a person that contracts with pharmacies on behalf of an insurer, an employer who is self-insured, entities that accept risk, third-party payers of claims, coordinated care organizations, or the Oregon Prescription Drug Program. The measure establishes minimum reimbursement standards for in-network pharmacies. This minimum reimbursement has two components:

- A professional dispensing fee equal or greater to the dispensing fee established by the Oregon Health Authority (OHA) for Medicaid reimbursement under federal regulations
- The cost of ingredients for the drug in an amount that is the lesser of the following, but in no event less than the fee-for-service rate paid by Medicaid:
 - The pharmacy's usual charge for the drug.
 - The Oregon Average Actual Acquisition Cost. If the drug is not on this cost list, the National Drug Acquisition Cost shall be used. If the drug is on neither list, the wholesale acquisition cost shall be used.

The measure amends requirements related to the auditing of pharmacies, including reducing the look-back period for auditing a claim from 24 to 12 months, and authorizes pharmacies to file a complaint with DCBS to contest the outcome of a reimbursement appeal with a PBM. It also requires health insurance policies to allow licensed pharmacies to participate as a preferred provider under the same terms and conditions as all other preferred providers. The measure requires DCBS to hire at least one additional full-time employee to assist in the regulation of PBMs.

Department of Consumer and Business Services

The anticipated fiscal impact on the DCBS budget totals \$1,107,679 Other Funds and five positions (4.40 FTE) in 2023-25 and \$1,272,649 and five positions (5.00 FTE) in 2025-27. The positions include the following:

- One Compliance and Regulatory Manager 2 for program implementation and legislative reporting and to act as a subject matter expert.
- Two Insurance Examiners to staff the appeals process and conduct compliance exams and complaint reviews.
- One Financial Enforcement Officer for enforcement and investigation into non-compliance.
- One Administrative Specialist 2 for administrative duties and to act as the first point of contact for general inquiries and information requests.

DCBS's administrative costs will be funded through fees paid by pharmacy benefit managers, as authorized under the measure.

Oregon Health Authority

The measure has an indeterminate fiscal impact on the Oregon Health Authority. The establishment of pharmacy reimbursement standards and provisions allowing licensed pharmacies to participate as preferred providers under certain conditions could impact the premium costs of the Public Employee's Benefit Board and Oregon Educators Benefit Board. Preliminary estimates provided by the agency show estimated cost increases of \$900,000 for PEBB and \$1.9 million for OEGB in 2023-25. However, the final cost impact will depend on further assessment of the reimbursement standards and preferred provider provisions, and the administrative rules developed to implement the measure.