

HB 3013 A STAFF MEASURE SUMMARY

House Committee On Rules

Action Date: 05/23/23

Action: Do pass with amendments and be referred to Ways and Means by prior reference.
(Printed A-Eng.)

Vote: 7-0-0-0

Yea: 7 - Breese-Iverson, Fahey, Kropf, Nosse, Scharf, Valderrama, Wallan

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 5/4, 5/23

WHAT THE MEASURE DOES:

Requires pharmacy benefit managers (PBMs) to be licensed by the Department of Consumer and Business Services (DCBS) beginning January 1, 2024. Requires annual renewal of license. Requires PBMs to comply with specified prescription drug coverage requirements. Specifies requirements for PBM reimbursement of solo network pharmacies and network pharmacy chains with fewer than 100 locations. Clarifies circumstances permitting retroactive claim denial or reduction by PBMs. Allows pharmacies to file complaint with DCBS to contest PBM appeal response or failure to comply with reimbursement provisions. Clarifies prohibited actions of PBM against network pharmacies. Requires PBM to submit pharmacy record request for audit purposes via electronic mail and facsimile or certified mail. Clarifies limitations of PBM pharmacy audits. Requires PBM to give pharmacy at least 30 days to respond to audit. Requires policies or certificates of health insurance and contracts providing for reimbursement of cost of prescription drugs to allow policyholder, certificate holder, or beneficiary to select pharmacy or pharmacist for dispensing prescription drugs. Prohibits PBM from denying pharmacy or pharmacist opportunity to participate as contracted provider if pharmacy or pharmacist agree to terms and conditions applicable to other contracted providers. Specifies prohibited practices in PBM adjudication of 340B drug claims. Exempts health maintenance organizations from prescription drug cost reimbursement provisions. Requires DCBS to hire at least one additional full-time employee to assist in the regulation of PBMs and allocates funds. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Closure of Oregon community pharmacies in recent years and impacts to consumers
- Federal Trade Commission inquiry into prescription drug middlemen
- Other states' regulation of pharmacy benefit managers (PBMs)
- PBM definition and application to organizations working on behalf of coordinated care organizations
- Potential cost impact of proposed fee changes
- Potential implications of federal Employee Retirement Income Security Act of 1974

EFFECT OF AMENDMENT:

Removes proposed addition of pharmacist as defined in ORS 689.005 from definition of "pharmacy." Clarifies definition of "pharmacy benefit manager" (PBM). Defines "pharmacy services" and "critical access pharmacy." Requires PBMs to comply with specified prescription drug coverage requirements. Clarifies requirements for payments to solo network pharmacy or a network pharmacy chain with fewer than 100 locations. Restores and modifies requirements for PBM appeal process of pharmacy drug reimbursement. Modifies ability for pharmacy to appeal directly to the Department of Consumer and Business Services to post PBM appeal or failure to comply with appeal process requirements. Clarifies limitations and requirements for on-site and remote pharmacy audits. Specifies prohibited practices in PBM adjudication of 340B drug claims. Exempts health maintenance

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organizations from prescription drug cost reimbursement provisions. Clarifies applicability of provisions to contracts between pharmacies and PBMs.

BACKGROUND:

Pharmacy benefit managers (PBMs) are companies that help manage prescription drug benefits on behalf of health insurers, self-insured employers, government purchasers, and other payers. PBMs operate in the middle of the prescription drug supply chain, acting as brokers between payers, drug manufacturers, and pharmacies, thereby influencing drug availability, drug pricing, and pharmacy reimbursement. Leveraging volume purchasing, PBMs can negotiate discounts from drug manufacturers, often in the form of rebates, which can help mitigate rising costs of prescription drugs. PBMs are paid for their services using a mix of fees, retained rebates, and other means.

House Bill 3013 A requires pharmacy benefit managers to be licensed by the Department of Consumer and Business services and imposes new requirements and restrictions on pharmacy benefit manager contracting, auditing, and reimbursement practices.