

HB 4149 -3, -4, -5 STAFF MEASURE SUMMARY

House Committee On Behavioral Health and Health Care

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/6, 2/14

WHAT THE MEASURE DOES:

The measure requires pharmacy benefit managers (PBMs) to be licensed by the Department of Consumer and Business Services (DCBS). It requires PBMs to submit contracts with pharmacies to DCBS upon request. The measure requires the Oregon Health Authority to establish a dispensing fee paid by PBMs for prescription drugs that are not covered by the medical assistance program. It changes the way pharmacies may appeal PBM reimbursements. It also changes processes for auditing pharmacies. The measure changes requirements for how health insurance policies providing prescription drug coverage interact with pharmacies and reimburse 340B drugs.

Detailed Summary:

- **Pharmacy Services Administrative Organization (Section 2)**
 - Defines “pharmacy services administrative organization”
 - Requires PBMs to submit to DCBS contracts and amendments to contracts with pharmacies or pharmacy services administrative organization and the PBM’s provider manuals
 - Exempts contracts and manuals submitted to DCBS from disclosure
- **Exemption of Health Benefit Plans (Section 3)**
 - Clarifies that provisions regulating PBMs do not regulate health benefit plans
- **Dispensing Fees (Section 4)**
 - Requires Oregon Health Authority (OHA), in consultation with Prescription Drug Affordability Board, to establish dispensing fees to be paid by PBMs for prescription drugs that are not covered by medical assistance programs
 - Establishes dispensing fee of no less than \$10 until OHA has adopted dispensing fee by rule
- **“Pharmacy Benefit Manager” Definition (Section 5)**
 - Updates definition of “pharmacy benefit manager”
 - Defines “pharmacy services”
- **PBM Licensing & Regulation (Sections 6-12)**
 - Requires PBM to be licensed by DCBS
 - Requires annual renewal of PBM license
 - Requires PBMs to pay dispensing fees to specified entities
 - Permits pharmacy to file complaint with DCBS to contest PBM appeal finding
 - Clarifies prohibited actions against network pharmacy by PBM
 - Defines “administrative fee” and “spread pricing”
 - Clarifies required information to be included in annual PBM report filed with DCBS
 - Clarifies definition of “audit” and procedures and limits for audits of pharmacies
- **Prescription Drug Coverage (Section 13)**
 - Requires health insurance policy to permit policy holder to select licensing pharmacy or pharmacist for the dispensing of prescription drugs reimbursed by policy
 - Prohibits health insurance policy from denying licensed pharmacy or pharmacist from opportunity to participate as preferred provider
 - Imposes new requirements on coverage of 340B drugs
 - Exempts health maintenance organizations from prescription drug coverage requirements

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- **DCBS Staff (Section 15)** – Requires DCBS to hire at least one full-time employee to assist in regulation of PBMs by January 1, 2025

Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Results of integration in pharmacy benefit market on small and independent pharmacies

EFFECT OF AMENDMENT:

-3 Removes provisions exempting health benefit plans from provisions regulating PBMs. Clarifies updated definition of "pharmacy benefit manager." Removes requirement for PBMs to pay dispensing fees to specified entities.

-4 Adds exemption from public records disclosure for sensitive business, commercial, or financial information furnished to or developed by the Oregon Prescription Drug Program (OPDP).

-5 Removes provisions exempting health benefit plans from provisions regulating PBMs. Removes requirement that PBM submit deidentified claims data in required annual report filed with DCBS. Removes provisions allowing insured to select pharmacy of pharmacist for dispensing of prescription drugs.

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.