

HB 4149 A STAFF MEASURE SUMMARY

House Committee On Behavioral Health and Health Care

Action Date: 02/19/24

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

Vote: 9-2-0-0

Yeas: 9 - Bowman, Conrad, Dexter, Goodwin, Javadi, Nelson, Nosse, Pham H, Tran

Nays: 2 - Diehl, Yunker

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 2/6, 2/19

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 changes processes for appealing PBM reimbursements and 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 organizations, as well as PBM provider manuals
 - Exempts contracts and manuals submitted to DCBS from public records disclosure
- **“Pharmacy Benefit Manager” Definition (Section 3)**
 - Updates the definition of “pharmacy benefit manager”
 - Defines “pharmacy services”
- **PBM Licensing & Regulation (Sections 4-10)**
 - Requires PBMs to be licensed by DCBS
 - Requires annual renewal of PBM licenses
 - Permits pharmacies to file a complaint with DCBS to contest a PBM appeal finding
 - Clarifies prohibited actions against network pharmacies by PBMs
 - Defines “administrative fee” and “spread pricing”
 - Clarifies required information to be included in annual PBM report filed with DCBS
 - Clarifies procedures and limits for audits of pharmacies
- **Prescription Drug Coverage (Section 11)**
 - Imposes new requirements on coverage of 340B drugs by health insurers
 - Exempts health maintenance organizations from prescription drug coverage requirements
- **Public Records Exemption (Section 13)**
 - Adds exemption from public records disclosure for sensitive business, commercial, or financial information furnished to or developed by the Oregon Prescription Drug Program (OPDP)
- **DCBS Staff (Section 14)** – 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.

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ISSUES DISCUSSED:

- Role of PBMs
- Impacts on small and independent pharmacies of consolidation in pharmacy benefit markets

EFFECT OF AMENDMENT:

Removes provisions exempting health benefit plans from provisions regulating PBMs. Removes requirement for PBMs to pay dispensing fees to specified entities. Clarifies updated definition of "pharmacy benefit manager." Restores requirement that PBMs include national drug code of available alternative drugs when denying an appeal for reimbursement by a pharmacy. Removes requirement that PBMs submit deidentified claims data in required annual report filed with DCBS. Removes provisions allowing insured to select pharmacy or pharmacist for dispensing of prescription drugs. Adds exemption from public records disclosure for sensitive business, commercial, or financial information furnished to or developed by the Oregon Prescription Drug Program (OPDP).

BACKGROUND:

Pharmacy benefit managers (PBMs) are companies that 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. By 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.