



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 529** HLS 23RS 696
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 23, 2023 7:43 PM **Author:** EDMONDS
Dept./Agy.: Office of Group Benefits **Analyst:** Patrice Thomas
Subject: Prescription Drug Payments and Prohibited Actions of PBM

INSURANCE/GROUP-STATE OR INCREASE SG EX See Note Page 1 of 2
 Provides relative to pharmacy benefit manager services provided to the office of group benefits

Proposed law requires compensation for any Pharmacy Benefit Management (PBM) contract shall be limited to an administrative fee only (the number of processed claims x a \$1.25 maximum transaction fee). Proposed law does the following: (1) prohibits the PBM from reimbursing an amount that is less than the actual acquisition cost of a covered drug, device, or service plus the professional dispensing fee; (2) requires the PBM to reimburse at a dispensing fee equal to or greater than the dispensing fee established by LA Dept. of Health, Medicaid program; (3) prohibits the PBM from including the dispensing fee or taxes when calculating the actual acquisition cost; and (4) the PBM to provide OGB real-time, unredacted, read access to view the pharmacy claims processing system and prior authorization records. Proposed law prohibits the PBM from the following actions: (1) patient steering; (2) denying any Louisiana-licensed pharmacy or pharmacist in good standing with the LA Board of Pharmacy the right to be a participating provider; (3) deducting sales taxes from any reimbursement; and (4) reduction of payment under the reconciliation process. Proposed law eff 1/01/2024.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will likely increase SGR expenditures within the Office of Group Benefits (OGB) as a result of increased pharmacy claim expenditures. The proposed law requires OGB to implement the following: (1) a \$1.25 cap on administrative fees paid to its contracted Pharmacy Benefit Manager (PBM); (2) adhere to a set reimbursement rate that PBMs must pay pharmacies; and (3) set professional dispensing fees at a rate greater than or equal to the current LA Medicaid dispensing fee amount. OGB estimates an increase of \$66 M in FY 24 and a continued increase in pharmacy claim costs in future fiscal years until the current PBM contract expires on December 31, 2027. To estimate the impact of the proposed law on pharmacy claim expenditures, OGB contracted with its actuary to perform a re-pricing exercise on its self-funded health plans' PBM administrative fees, prescription drug dispensing fees, and branded prescription drug claims. Based upon the assumptions listed below, OGB estimates the following expenditures:

OGB Expenditures	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Total
PBM Administrative Costs	(\$1,527,600)	(\$1,523,300)	(\$1,518,900)	(\$1,514,600)	(\$756,200)	(\$6,840,600)
Dispensing Fee Costs	\$37,307,700	\$37,437,500	\$37,567,700	\$37,698,400	\$18,881,900	\$168,893,200
Brand Drug Claims Costs	<u>\$30,341,500</u>	<u>\$34,010,000</u>	<u>\$37,189,500</u>	<u>\$39,791,500</u>	<u>\$20,569,500</u>	<u>\$161,902,000</u>
Total Expenditures	\$66,121,600	\$69,924,200	\$73,238,300	\$75,975,300	\$38,695,200	\$323,954,600

Note: SGF appropriation will be required to cover the state portion of the increase in premium costs, which is approximately 40%.

Assumptions

(1.) The current PBM contract with CVS Caremark is three years with an option for a two-year renewal. The above estimates assume OGB will extend the three-year CVS Caremark contract for an additional 2 years. Therefore, the contract cannot extend beyond five years, from 1/01/2023 to 12/31/2027. As a result, only 6 months of expenditures are shown in FY 28. (2.) The estimates assume that the \$1.25 all-inclusive administrative fee would replace the following administrative fees currently being charged to OGB by its PBM contractor: (a) \$0.98 per claim administrative fee applicable to both the Commercial plan and Employer Group Waiver Plans (EGWP) Medicare Advantage; (b) \$5.00 per member per month (PMPM) administrative fee applies to EGWP only; (c) \$0.04 PMPM clinical management fee applicable to the Commercial plan only. (3.) The PMPM based calculations were based on plan membership of 157,841 commercial members and 44,530 EGWP, total plan members of 202,371.

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REVENUE EXPLANATION

OGB reports the proposed law will likely increase premiums by an indeterminable amount as the result of pharmacy claim expenditures increasing under this measure. OGB must maintain an actuarially sound fund balance of \$250 M. As of February 2023, the OGB fund balance was \$434 M.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Alan M. Boxberger
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Interim Legislative Fiscal Officer



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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION Continued from Page 1

Assumptions, Continued from Page 1

(4.) Projections are based on utilization experience provided by OGB's prior PBM, Express Scripts, Inc., for the period of 1/1/2022 - 5/31/2022 for all population groups. (5.) Utilization will increase annually by the following amounts: (a) Commercial plan: 0.25% for non-specialty drugs and 1.0% for specialty drugs; (b) EGWP plan: 0.5% for non-specialty drugs and 1.5% for specialty drugs. (6.) Prescription drug costs will increase annually for the following trend amounts: (a) Commercial plan: 5.0% for non-specialty brand drugs and 7.5% for specialty brand drugs; (b) EGWP plan: 5.5% for non-specialty brand drugs and 8.5% for specialty brand drugs. (7.) Cost estimates include specialty drugs. (8.) Actual Acquisition Cost ("AAC") to be used for reimbursement of brand prescription drugs to pharmacies is equal to the Average Wholesale Price ("AWP") minus 18%. (9.) Generic drug claim costs are assumed to not be impacted by proposed legislation to reimburse pharmacies at AAC. Generic drug claims are included in dispensing fee estimated impact. (10.) The dispensing fee established by the LA Department of Health (LDH), Medicaid program is \$10.99 per prescription.

Administrative Fee Cap (\$1.5 M Decrease)

The proposed law requires an all-inclusive administrative fee cap of \$1.25 per processed pharmacy claim paid to the contracted PBM.

Table with 4 columns: Year, Current PBM Estimates, Proposed Law Estimates, Difference. Rows for FY 2024 through FY 2028.

Note: The above estimates do not include administrative fees (clinical management fees) associated with prior authorization or prior authorization appeals. To the extent that fees associated with prior authorization account for a significant amount of the current PBM's administrative fees, there may be potentially greater savings than estimated above.

Dispensing Fees (\$37.3 M Increase)

The proposed law prohibits OGB's contracted PBM from reimbursing pharmacies an amount less than the sum of the pharmacy's actual acquisition cost plus a professional dispensing fee, which shall be equal to or greater than the professional dispensing fee established by LDH Medicaid in effect at the time of service. The current Medicaid dispensing fee is \$10.99 per claim. OGB reports the majority of its claims to include a dispensing fee of approximately \$0.10 per claim.

Table with 4 columns: Year, Current PBM Estimates, Proposed Law Estimates, Difference. Rows for FY 2024 through FY 2028.

Branded Drug Claims (\$30.3 M Increase)

The proposed law requires OGB's contracted PBM to reimburse pharmacies for their actual acquisition costs and prohibits the PBM from including professional dispensing fees or taxes in the amount. The proposed law prohibits the PBM from retaining any portion of pharmaceutical manufacturer rebates or engaging in spread pricing. Also, the proposed law prohibits the PBM from deducting sales taxes owed to taxing authorities from the reimbursement amount due to a pharmacy or reducing payment to pharmacies for drugs, devices, and services under a reconciliation process.

Table with 4 columns: Year, Current PBM Estimates, Proposed Law Estimates, Difference. Rows for FY 2024 through FY 2028.

Note: The above estimates do not include generic drug claims. The actuary for OGB reported difficulty in modeling the re-pricing of generic drugs. Although generic drug claim costs make up a higher percentage of OGB's pharmacy claim expenditures, the impact of this proposed law on generic drugs is unknown and expenditures are indeterminable.

Senate Dual Referral Rules
[X] 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
[] 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
[X] 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
[] 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Signature of Alan M. Boxberger
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