
DIGEST

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HB 172 Original

2024 Regular Session

Echols

Abstract: Requires certain contractors with the state's office of group benefits (OGB) to annually disclose their known revenues and to remit certain revenue amounts back to the state for deposit into the state treasury.

DEFINITIONS

Proposed law defines the following terms for the purposes of proposed law:

- (1) "Administrator" means any entity contracted with OGB to solicit or effect coverage of, underwrite, collect charges or premiums from, or adjust or settle claims in connection with life or health insurance coverage or annuities offered by OGB. The term "administrator" shall not include an employer performing any such service on behalf of its employees, an independent consulting actuary contracted with the office, or a pharmacy benefit manager.
- (2) "Pharmacy benefit manager" means any person or business contracted with OGB to administer a prescription drug or device program of one or more health plans on behalf of the office in accordance with a pharmacy benefit program.
- (3) "Third-party administrator" means any person or entity that contracts with an administrator to solicit or effect coverage of, underwrite, collect charges or premiums from, or adjust or settle claims in connection with life or health insurance coverage or annuities offered by OGB. The term "third-party administrator" shall not include an employer performing any such service on behalf of its employees.
- (4) "Third-party pharmacy benefit manager" means any agent or representative of a pharmacy benefit manager hired or contracted by the pharmacy benefit manager to assist in the administering of OGB's drug program and any wholly or partially owned or controlled subsidiary of a pharmacy benefit manager.

ANNUAL FINANCIAL REPORTS

Proposed law requires each administrator and pharmacy benefit manager that had a contract with the office in the preceding calendar year and each third-party administrator and third-party pharmacy benefit manager that had a contract with an administrator or pharmacy benefit manager in the preceding calendar year to file a report with OGB detailing its then-known revenues for the preceding calendar year, by source. Further provides that each such party file a final report each year

no later than June 30th, updating as appropriate any information in its earlier filing to ensure that all revenues are reported. Proposed law requires such reports to be in the form and contain all other information as OGB requires. Additionally requires the filer to submit copies of each of its reports to the House and Senate committees on insurance at the time it files its report with OGB.

REMITTANCE OF REVENUES IN EXCESS OF CONTRACT AMOUNTS

Proposed law requires each OGB administrator and pharmacy benefit manager contract to establish an administrative fee or a calculation of an administrative fee to be retained by the contractor for performance of its duties. Prohibits the administrator or pharmacy benefit manager from retaining revenues attributable to its contract with OGB other than this fee. This prohibition includes revenues from rebates and other fee arrangements with third-party administrators and third-party pharmacy benefit managers which revenues are directly attributable to the contract with the office.

Proposed law further requires each administrator and pharmacy benefit manager to remit to OGB all other revenues collected by the contractor in the calendar year covered by the report that are directly attributable to its contract with OGB and are not part of its administrative fee. Such monies are to be remitted within 30 days of filing the first report required by proposed law. Further requires that within 30 days of filing the final report required by proposed law, the contractor must remit to OGB any new revenues disclosed on such report that are not part of the administrative fee. Any monies collected by OGB pursuant to proposed law are to be remitted by OGB to the state treasury for deposit into the state general fund.

PENALTIES

Proposed law establishes a duty of good faith and fair dealing on administrators and pharmacy benefit managers contracted with OGB. Further establishes on third-party administrators and third-party pharmacy benefit managers a duty to disclose to the state revenues paid to an administrator or pharmacy benefit manager. Further provides that failure to file a report required by proposed law or failure to accurately or completely disclose revenues on such a required report constitutes a breach of the duties imposed in proposed law.

Proposed law provides that, in addition to damages, attorneys fees, and costs for breach of the imposed duty, including all costs associated with recovering owed amounts, the state may be awarded penalties assessed against the breaching party in an amount not to exceed the greater of the following:

- (1) Two times the party's total rebates and fees received for the calendar year for which the party failed to disclose, not limited to those rebates and fees attributable to the contract with the office.
- (2) \$10,000 per day per violation for each day the party is found to be in violation of the provisions of this Subpart.

ADMINISTRATIVE PROCEDURE ACT

Present law establishes the Administrative Procedure Act (APA) and sets for the requirements that an executive branch unit (board, commission, department, agency, etc.) must follow in order to promulgate rules regulating its conduct.

Present law sets forth the criteria pursuant to which an emergency rule may be promulgated. Proposed law creates an exception to this criteria for OGB to promulgate emergency rules for initial implementation of proposed law.

Proposed law directs the La. State Law Institute to redesignate present law (R.S. 42:801 through 812) as Subpart A of Part I of Chapter 12 of Title 42.

Effective July 1, 2024.

(Adds R.S. 42:813-817 and R.S. 49:955(B)(10.1))