

**FISCAL IMPACT OF PROPOSED LEGISLATION**

80th Oregon Legislative Assembly – 2019 Regular Session  
Legislative Fiscal Office

**Measure: HB 2185 - B10**

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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Date: June 10, 2019

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**Measure Description:**

Imposes new requirements on pharmacy benefit managers registered in this state.

**Government Unit(s) Affected:**

Oregon Health Authority (OHA), Department of Consumer and Business Services (DCBS)

**Summary of Fiscal Impact:**

Costs related to the measure are indeterminate at this time - See explanatory analysis.

**Analysis:**

HB 2185 - B10 changes the requirements for pharmacy benefit managers (PBMs). Under this measure, a PBM:

- May not require a prescription to be filled or refilled by a mail order pharmacy as a condition for reimbursing the cost of the drug.
- May require a prescription for a specialty drug to be filled at a specialty pharmacy as a condition for reimbursement.
- Must reimburse the cost of a specialty drug filled at a network long term care pharmacy.
- Must allow the network pharmacy to mail, ship or deliver prescription drugs as a service, but is not required to reimburse the delivery fee charged by a pharmacy for delivery unless that fee is in contract between the pharmacy and PBM.
- May not penalize a network pharmacy for informing an enrollee of the difference between out-of-pocket costs for a drug using their pharmacy benefit and the pharmacy's usual charge for a prescription drug.
- May not reimburse a 340B pharmacy differently than other pharmacies.
- May not retroactively deny or reduce claims for reimbursement except for in certain circumstances.

The measure also defines or modifies the definition of enrollee, health benefit plan, long-term care pharmacy, network pharmacy, pharmacy, pharmacy benefit, pharmacy benefit manager, specialty drug, specialty pharmacy, 340B pharmacy, and mail order pharmacy; and defines "Generally available for purchase" as a drug for sale from a national or regional wholesaler when a claim for reimbursement is submitted; the measure also clarifies when a drug is not defined as "generally available for purchase."

Additionally, the measure sets restrictions on delivery verification and replacements for drugs not delivered. It modifies requirements related to the list of drugs for which maximum allowable costs have been established and requires a pharmacy benefit manager to make the list available to the network pharmacy electronically, in a searchable manner, and with certain information included. Finally, this measure modifies the reimbursement appeal process. The measure applies to pharmacy benefits and contracts with PBMs that are entered into, renewed or extended on or after January 1, 2021.

The Department of Consumer and Business Services (DCBS) may adopt rules to carry out parts of this measure. This is anticipated to have minimal fiscal impact for DCBS.

The Oregon Health Authority (OHA) anticipates a potential fiscal impact as a result of this measure due to an increase in premiums for Oregon Educators Benefit Board (OEBB) and Public Employees Benefit Board (PEBB) health insurance plans. OEBB and PEBB's Statewide and Providence Choice plans, and PEBB's Moda plans, could be impacted by increased drug costs under this measure. Kaiser Permanente plans were not included in this analysis as this bill is not applicable to Kaiser health insurance plans.

Under this measure, PBMs could see increased costs due to:

- The requirement that specialty pharmacies that serve long term care facilities be reimbursed at cost;
- Uncertainty about who bears the costs for replacement drugs shipped to a patient;
- A potential restriction on the ability of PBMs to add drugs to the maximum allowable cost list if these drugs are reimbursed at a lower rate than retail drugs.

These costs could raise OEBB and PEBB health insurance premiums, but the cost is indeterminate at this time.

OHA also anticipates a similar chain of events could increase Medicaid costs- higher costs for PBMs could lead to higher costs for Managed Care Organizations, which in turn would increase Medicaid costs. The fiscal impact to Medicaid is also indeterminate.