

## HB 3013 -2, -3, -5 STAFF MEASURE SUMMARY

### House Committee On Rules

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**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 5/4, 5/23

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#### WHAT THE MEASURE DOES:

Requires pharmacy benefit managers (PBMs) to be licensed by the Department of Consumer and Business Services (DCBS) beginning January 1, 2024. Requires annual renewal of license. Specifies requirements for PBM reimbursement of solo network pharmacies and network pharmacy chains with fewer than 100 locations. Clarifies circumstances permitting retroactive claim denial or reduction by PBMs. Allows pharmacies to appeal directly to DCBS without first appealing to PBM. Clarifies prohibited actions of PBM against network pharmacies. Clarifies requirements and limitations of pharmacy audits by PBMs. Requires policies or certificates of health insurance and contracts providing for reimbursement of cost of prescription drugs to allow policyholder, certificate holder, and beneficiary to select pharmacy or pharmacist for filling prescriptions and prescription renewals, to contract with any pharmacy or pharmacist willing to abide by terms and conditions of policy, certificate, or contract. Prohibits requirement for claim for reimbursement of prescription drug to include indicator that drug is 340B drug unless claim is for a direct payment from the medical assistance program or is required by law to prevent a duplicate discount or rebate. Requires DCBS to hire at least one additional full-time employee to assist in the regulation of PBMs and allocates funds. Declares emergency, effective on passage.

#### ISSUES DISCUSSED:

- Closure of Oregon community pharmacies in recent years and impacts to consumers
- Federal Trade Commission (FTC) inquiry into prescription drug middlemen
- Other states regulation of PBMs
- PBM definition and application to organizations working on behalf of coordinated care organizations (CCOs)
- Potential cost impact of proposed fee changes
- Potential implications of federal Employee Retirement Income Security Act of 1974 (ERISA)

#### EFFECT OF AMENDMENT:

-2 Removes proposed addition of pharmacist as defined in ORS 689.005 from definition of "pharmacy." Clarifies definition of "pharmacy benefit manager." Defines "pharmacy services." Requires PBMs to comply with specified prescription drug coverage requirements. Clarifies requirements for payments to solo network pharmacy or a network pharmacy chain with fewer than 100 locations. Restores and modifies requirements for PBM appeal process of pharmacy drug reimbursement. Modifies ability for pharmacy to appeal directly to DCBS to post PBM-appeal or failure to comply with appeal process requirements. Clarifies limitations and requirements for pharmacy audits. Clarifies 340B drug reimbursement requirements. Clarifies application of provisions to health care service contractors.

-3 Exempts health maintenance organizations from prescription drug cost reimbursement provisions.

-5 Removes proposed addition of pharmacist as defined in ORS 689.005 from definition of "pharmacy." Clarifies definition of "pharmacy benefit manager." Defines "pharmacy services" and "critical access pharmacy." Requires PBMs to comply with specified prescription drug coverage requirements. Clarifies requirements for payments to solo network pharmacy or a network pharmacy chain with fewer than 100 locations. Restores and modifies requirements for PBM appeal process of pharmacy drug reimbursement. Modifies ability for pharmacy to appeal directly to DCBS to post PBM-appeal or failure to comply with appeal process requirements. Clarifies limitations

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and requirements for on-site and remote pharmacy audits. Clarifies 340B drug reimbursement requirements. Exempts health maintenance organizations from prescription drug cost reimbursement provisions. Clarifies applicability to contracts between pharmacies and PBMs.

### **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.

House Bill 3013 requires pharmacy benefit managers to be licensed by the Department of Consumer and Business services and imposes new requirements on PBMs.