

**FISCAL IMPACT OF PROPOSED LEGISLATION**

Measure: HB 3013 - 5

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

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

Prepared by: Tim Walker  
 Reviewed by: Steve Robbins, Ben Ruef  
 Date: 05/23/2023

**Measure Description:**

Requires pharmacy benefit managers to be licensed by Department of Consumer and Business Services beginning January 1, 2024, and imposes new requirements on pharmacy benefit managers.

**Government Unit(s) Affected:**

Department of Consumer and Business Services, Oregon Health Authority

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

**Summary of Expenditure Impact:**

	2023-25 Biennium	2025-27 Biennium
<b>Department of Consumer and Business Services</b>		
<b>Other Funds</b>		
Personal Services	\$979,793	\$1,113,401
Services and Supplies	\$127,886	\$159,248
<b>Total Other Funds</b>	<b>\$1,107,679</b>	<b>\$1,272,649</b>
<i>Total Funds</i>	<i>\$1,107,679</i>	<i>\$1,272,649</i>
<i>Positions</i>	5	5
<i>FTE</i>	4.40	5.00
<b>Oregon Health Authority</b>		
<b>Other Funds</b>		
Services and Supplies	\$488,476	\$651,301
<b>Total Other Funds</b>	<b>\$488,476</b>	<b>\$651,301</b>
<i>Total Funds</i>	<i>\$488,476</i>	<i>\$651,301</i>
<i>Positions</i>	0	0
<i>FTE</i>	0.00	0.00
<b>Total Other Funds</b>	<b>\$1,596,155</b>	<b>\$1,923,950</b>
<b>Total Fiscal Impact</b>	<b>\$1,596,155</b>	<b>\$1,923,950</b>
<i>Total Positions</i>	5	5
<i>Total FTE</i>	4.40	5.00

**Analysis:** The measure requires pharmacy benefit managers (PBM) to obtain a license from the Department of Consumer and Business Services (DCBS). A PBM is defined as a person that contracts with pharmacies on behalf of an insurer, an employer who is self-insured, entities that accept risk, third-party payers of claims, coordinated care organizations, or the Oregon Prescription Drug Program. The measure establishes minimum reimbursement standards for in-network pharmacies with fewer than 100 locations. This minimum reimbursement has two components:

- A professional dispensing fee equal or greater to the dispensing fee established by the Oregon Health Authority (OHA) for Medicaid reimbursement under federal regulations

- The cost of ingredients for the drug in an amount at least the fee-for-service rate paid by Medicaid, or the lesser of:
  - The pharmacy's usual charge for the drug.
  - The average actual acquisition cost for Oregon, as defined in the bill.
  - The national average drug acquisition cost published by the federal Center for Medicare and Medicaid Services; or
  - The drug's wholesale acquisition cost, as defined in the bill

The measure also allows a PBM to repeal disbursement to DCBS and prohibits PBMs from requiring direct appeal of reimbursement. The measure has a blank General Fund appropriation.

The anticipated fiscal impact on the DCBS budget includes the following positions:

- One Compliance and Regulatory Manager 2 (0.875 FTE) for program implementation and legislative reporting and to act as a subject matter expert.
- Two Insurance Examiners (1.75 FTE) to staff the appeals process and conduct compliance exams and complaint reviews.
- One Financial Enforcement Officer (0.875 FTE) for enforcement and investigation into non-compliance.
- One Administrative Specialist 2 (0.875 FTE) for administrative duties and licensing duties and to act as the first point of contact for general inquiries and information requests.

General Fund is assumed to pay for startup costs in 2023-25. Ongoing costs will be funded through fees assessed to pharmacy benefit managers to support the functions in administering the proposed licensing program under ORS 731.804.

The Oregon Health Authority (OHA) anticipates that rate changes to Oregon Educators Benefit Board (OEBB) and the Public Employees Benefit Board (PEBB) may result in changes to premium rates. The changes to OEBB premiums are indeterminate at this time, depending on whether negotiated rates are above or below the average payments/invoices to Oregon pharmacies. PEBB anticipates an increase of 0.04% due to the cost of the requirements of the PBM. The 2023-25 biennium would see an Other Funds increase of \$488,476 in 2023-25 and \$651,301 in the 2025-27 biennium.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact on the State's General Fund.