

SB 404 A STAFF MEASURE SUMMARY

Senate Committee On Health Care

Action Date: 03/22/23

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 3-2-1-0

Yeas: 3 - Campos, Patterson, President Wagner

Nays: 2 - Bonham, Hayden

Exc: 1 - Gorsek

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 2/22, 3/22

WHAT THE MEASURE DOES:

Directs pharmacy benefit managers (PBMs) and group purchasing organizations to file an annual report with the Department of Consumer and Business Services (DCBS) by June 1 of each year. The report must contain the aggregate dollar amount of rebates, fees, and any other payments received by PBMs from drug manufacturers. The report must also include the aggregated dollar amounts of rebates, fees, and other payments passed on to carriers or enrollees or retained as revenue by PBMs. Directs DCBS to publish aggregated data from the reports without disclosing information to identify carriers, PBMs, or enrollees. Directs the Prescription Drug Advisory Board (PDAB) to develop a plan for establishing upper payment limits, including methodology and analysis of resources needed and means of enforcement. Plan shall include analysis for implementation of upper payment limit with respect to drugs purchased by the Oregon Health Authority, the Public Employee Benefits Board (PEBB), the Oregon Educators Benefits Board (OEBC), other state-administered health benefits, and health benefit plans. Directs the PDAB to report back to interim committees of the Legislative Assembly related to health no later than September 15, 2024. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Timelines for implementation of upper payment limits in other states
- Transparency requirements for entities that testify before the Prescription Drug Advisory Board

EFFECT OF AMENDMENT:

Removes provisions requiring patient advocacy organizations to disclose sources of financial contribution from pharmaceutical supply chain entities. Removes provisions directing the Department of Consumer and Business Services to make rules to implement upper payment limits. Changes annual reporting date for pharmacy benefit managers to June 1.

BACKGROUND:

In 2018, the Legislative Assembly passed the Prescription Drug Price Transparency Act (House Bill 4005), which requires pharmaceutical manufacturers and insurers to report specified prescription drug cost and price information. In 2021, the Legislative Assembly established Oregon's Prescription Drug Affordability Board (PDAB) and directed it to review and report on the cost and affordability of different categories of prescription drugs (Senate Bill 844). Senate Bill 844 also directs the PDAB to provide recommendations for legislative changes necessary to make prescription drug products more affordable.

Among recommendations in its 2022 report, the PDAB recommends that it be granted authority to make rules that would allow it to implement upper payment limits for drugs purchased by state and local governments ([Link](#))

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to PDAB's 2022 Report for the Legislature). An upper payment limit is the maximum amount that can be paid or billed for a prescription drug that is dispensed or distributed in any financial transaction concerning the purchase or reimbursement of a prescription drug. Prescription drug advisory boards in Maryland and Colorado have statutory authority to create rules to implement upper payment limits. Along with upper payment limits, the PDAB recommends annual reporting of the aggregated dollar amount of rebates, fees, and any other payments to Pharmacy Benefit Managers from drug manufacturers.

Senate Bill 404 A directs pharmacy benefit managers (PBMs) to file an annual report with the Department of Consumer and Business Services (DCBS) containing the aggregate dollar amount of rebates, fees, and any other payments received by PBMs, and directs the Prescription Drug Advisory Board to develop a methodology for establishing upper payment limits and to report to the interim committees of the Legislative Assembly related to health care no later than September 15, 2024.