

## HB 3092 STAFF MEASURE SUMMARY

### House Committee On Behavioral Health and Health Care

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**Prepared By:** Brian Nieuburt, LPRO Analyst

**Meeting Dates:** 2/25

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#### **WHAT THE MEASURE DOES:**

The measure requires the Oregon Educators Benefit Board (OEBB) to count amounts paid by the enrollee or on behalf of the enrollee when calculating the enrollee's contribution to an out-of-pocket maximum, deductible, copayment, coinsurance, or other required prescription drug cost-sharing. Takes effect on 91st day following adjournment sine die.

*FISCAL: May have fiscal impact, but no statement yet issued.*

*REVENUE: May have revenue impact, but no statement yet issued.*

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

No amendment.

#### **BACKGROUND:**

Prescription drug manufacturers sometimes offset the out-of-pocket cost of brand name drugs by offering copay assistance programs. Historically, amounts paid towards the cost of drugs (regardless of source) would count towards the patient's deductible. However, copayment assistance programs also have the potential to encourage people to use high-cost medications when cheaper, generic versions may be available. Therefore, health insurers have begun to implement "copay accumulator" programs that do not count amounts paid using copayment assistance programs towards the insured's deductible. In 2021, the Health and Human Services Department (HHS) adopted rules authorizing the use of copay accumulators. In 2022, patient advocacy groups filed suit seeking to invalidate those rules. In September 2023, a federal district court struck down the copay accumulator rules, noting that neither HHS nor the Centers for Medicare and Medicaid Services (CMS) had adopted a definition of "cost sharing" that could support the exclusion of copayment assistance from deductible calculations. While the federal government initially appealed that ruling, the appeal was dropped in January 2024. In the 2024 Session, the Legislative Assembly passed House Bill 4113 requiring health benefit plans offering prescription drug coverage to count amounts paid by the enrollee or on behalf of the enrollee when calculating the enrollee's cost-sharing contributions.

House Bill 3092 requires the Oregon Educators Benefit Board (OEBB) to count amounts paid by the enrollee or on behalf of the enrollee when calculating the enrollee's contribution to any required prescription drug cost-sharing.