

HB 3212 STAFF MEASURE SUMMARY

House Committee On Behavioral Health and Health Care

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Meeting Dates: 2/4, 4/8

WHAT THE MEASURE DOES:

The measure expands rules governing pharmacy benefit managers (PBMs) and prescription drug coverage in Oregon.

Detailed Summary

- Clarifies that a pharmacy or provider manual may not be considered a contract.
- Prohibits PBMs from engaging in spread pricing.
- Directs the Oregon Health Authority (OHA) to establish a dispensing fee. Requires PBMs to pay network pharmacies the dispensing fee established by the OHA.
- Requires PBMs to reimburse pharmacies for the cost of a drug's ingredients and stipulates parameters for amount of the reimbursement. Requires PBMs to establish a process for a pharmacy to appeal reimbursement for ingredient cost or dispensing fees.
- Requires PBMs to offer equal contracts to both in and out-of-network pharmacies and to reimburse pharmacies the same regardless of network status.
- Prohibits PBMs from entering a contract with a pharmacy services administrative organization (PSAO) that:
 - Restricts a pharmacist from discussing the terms of their contract;
 - Requires a pharmacy or PSAO to participate in any other contract;
 - Requires a pharmacy to receive accreditation or certification beyond what is required by the Board of Pharmacy, or to meet additional requirements deemed to be unreasonable by the Department of Consumer and Business services; or,
 - Requires a pharmacy to provide services to a patient when their reimbursement will be less than the cost for the pharmacy to acquire the drug or requiring the pharmacy to provide services to an individual without coverage for prescription drugs.
- Requires an insurance policy that provides prescription drug coverage in Oregon to allow the beneficiary to choose a pharmacist/pharmacy and prohibits the policy from restricting a pharmacist/pharmacy from participating as a preferred provider if the pharmacist/pharmacy agrees to the terms.
- Prohibits an insurance policy from requiring beneficiaries to fill prescriptions at network pharmacies only.

Fiscal impact: Fiscal impact issued

Revenue impact: No revenue impact

ISSUES DISCUSSED:

- Prescription drug reimbursement rates
- Pharmacy closures nationally and in Oregon and the reasons for those closures, independent pharmacy versus chain pharmacy closures
- Statewide access to pharmacies
- Spread pricing practices and pharmacy rebates
- Prescription dispensing fees, the approach to setting dispensing fees, and whether dispensing fees are passed along to the consumer
- Costs to consumer paying with cash versus through insurance

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- Impact on consumer cost when a state moves to National Average Drug Acquisition Cost (NADAC) plus dispensing fee reimbursement model
- Role of PBMs in the prescription drug supply chain
- The Prescription Drug Affordability Board (PDAB)

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Pharmacy benefit managers (PBMs) are companies that manage prescription drug benefits on behalf of health insurers, self-insured employers, government purchasers, and other payors. PBMs operate in the middle of the prescription drug supply chain, acting as brokers between payers, drug manufacturers, and pharmacies. In this role, PBMs can influence drug availability, pricing, and pharmacy reimbursement. PBMs also negotiate drug manufacturer discounts, often as rebates, which can help mitigate increasing costs of prescription drugs. PBMs receive payment for their services through a combination of fees, rebates, and other means. PBMs are sometimes known to engage in spread pricing, the practice of retaining a portion of the reimbursement amount paid by health insurance plans rather than passing the full reimbursement on to pharmacies.

Pharmacy services administrative organizations (PSAOs) serve as intermediaries between pharmacies and pharmacy benefit payers, including health insurers and PBMs. PSAOs primarily serve independent and small-chain pharmacies by providing back-office support for administrative functions, including contract negotiation, regulatory compliance, audit and reimbursement assistance, credentialing, and data management.

House Bill 3212 expands rules governing pharmacy benefit managers (PBMs) and prescription drug coverage in Oregon.