HB 3409 -2, -3 STAFF MEASURE SUMMARY

House Committee On Rules

Prepared By: Brian Nieubuurt
Meeting Dates: 4/21, 4/28

WHAT THE MEASURE DOES:

The measure requires the Oregon Health Authority (OHA) to study health care and report finding to the Legislative Assembly by September 15, 2026.

ISSUES DISCUSSED:

- Complexity of 340B drug pricing program
- Importance of preserving access to 340B drugs
- Similar law in Arkansas
- Clearinghouse model usage in the Medicaid program and by other states
- Administrative burden associated with modifier requirements
- House Bill 2185 (2019)
- Claims modifier usage requirements by other payers or providers

EFFECT OF AMENDMENT:

-2 **Replaces the measure.**

The amendment specifies the circumstances in which a pharmacy benefit manager (PBM) or insurer is prohibited from requiring a 340B pharmacy to submit a claim for reimbursement with a modifier or other indicator that the drug is a 340B drug.

Detailed Summary:

- Prohibits a PBM or insurer from requiring a covered entity to submit a claim for reimbursement with modifier or other indicator that the drug is a 340B drug when:
  - The 340B data is submitted to a third party clearinghouse that meets specified conditions;
  - The modifier or other indicator is not required to prevent a duplicate discount or rebate; or
  - The claim is for payment by the state medical assistance program.
- Specifies that PBMs are not required to participate or subscribe to a clearinghouse.
- Takes effect on 91st day following adjournment sine die.

Defines "conflict of interest" as "present employment or third party employment by a covered entity, pharmaceutical manufacturer, pharmacy benefit manager or health benefit plan"

FISCAL: Minimum fiscal impact.
REVENUE: No revenue impact.

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"*Defines "conflict of interest" as "present employment or third party employment by a covered entity, pharmaceutical manufacturer, pharmacy benefit manager or health benefit plan OR third party employment, ownership or control by a covered entity, pharmaceutical manufacturer, pharmacy benefit manager or health benefit plan"**"

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BACKGROUND:

In 1990, Congress created the Medicaid drug rebate program (MDRP) to lower the cost of drugs covered by state Medicaid programs. The MDRP requires drug manufacturers to enter into a rebate agreement with the Secretary of the Department of Health and Human Services (HHS) as a precondition for coverage of the manufacturer's drugs by Medicaid and Medicare Part B. In 1992, Congress expanded this relief through the creation of the 340B drug pricing program. The 340B drug pricing program requires a similar agreement with the HHS Secretary in which the manufacturer agrees to provide front-end discounts on covered outpatient drugs offered by "covered entities" that serve the most vulnerable patient populations. The definition of "covered entities" includes six categories of hospitals and ten categories of non-hospital entities that are eligible based on receiving federal funding and include federally qualified health centers (FQHCs), Ryan White Comprehensive AIDS Resources Emergency (CARE) Act clinics and programs, and Title X family planning clinics.

In 2013, the Legislative Assembly passed House Bill 2123 requiring pharmacy benefit managers (PBMs) to be registered with the Department of Consumer and Business Services (DCBS). Subsequent legislation has added to these requirements, including House Bill 2185 (2019), that added the prohibition on PBMs reimbursing 340B pharmacies differently from other network pharmacies.