



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0359 Signed by Governor on May 16, 2019
Author: Gambrell
Subject: Pharmacy Benefits Managers
Requestor: Senate
RFA Analyst(s): Miller and Shuford
Impact Date: June 4, 2019

Fiscal Impact Summary

This bill will increase non-recurring Other Funds expenditures of the Department of Insurance (DOI) by \$20,000 for office set up and IT software development in FY 2019-20. Furthermore, this bill will increase recurring Other Funds expenditures by \$143,000, for salaries, employer benefits, and operating expenses for 2.00 FTEs for DOI beginning in FY 2019-20.

This bill will not have an expenditure impact on the State Health Plan administered by the Public Employee Benefits Authority (PEBA) because the Pharmacy Benefit Manager currently engaged by PEBA complies with the requirements of this bill regarding maximum allowable cost lists.

This bill will increase Other Funds license fee revenue for DOI by a total of \$20,000 in initial license fees in FY 2020-21 for the annual license fee of \$1,000 for the expected 20 pharmacy benefit managers. The annual renewal fee of \$500 multiplied by 20 pharmacy benefits managers totals \$10,000 beginning in FY 2021-22 for the annual renewals.

Additionally, the revenue impact from the PBMs who are subject to administrative penalties of \$15,000 for violations of state or federal insurance law and \$30,000 for a willful violation of state or federal insurance laws is undetermined. Since PBMs are newly added to those subject to administrative penalties, the increase in Other Funds revenue for DOI for the increase in penalties collected is unknown, beginning in FY 2020-21.

Explanation of Fiscal Impact

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State Expenditure

This bill repeals the current Pharmacy Benefit Managers (PBMs) statutes in Article 20 of Chapter 71, Title 38. The bill requires all pharmacy benefits managers to be licensed with the Director of DOI. The fee for the license is \$1,000 for the initial application and \$500 for annual renewal.

Additionally, this bill provides that PBMs may not prohibit, restrict, or penalize a pharmacy or pharmacist from disclosing health care information to an insured. This health care disclosure may include alternative treatment, the process used to authorize or deny coverage, and financial incentives and structures used by the insurer. Further, a pharmacy may provide an insured information on the total cost for pharmacist services for a prescription drug and may sell a more affordable alternative to the insured if available. This bill takes effect on January 1, 2021.

Department of Insurance (DOI). This bill requires DOI to establish a new regulatory framework for PBMs, which will impact non-recurring Other Funds expenditures by \$20,000 for office set up and IT software development in FY 2019-20. Furthermore, this bill will increase recurring Other Funds expenditures by \$143,000, for salaries, employer benefits, and operating expenses for 2.00 FTEs for DOI beginning in FY 2019-20.

Public Employee Benefits Authority (PEBA). The requirements of this bill regarding maximum allowable cost lists will apply to the PBM utilized by the State Health Plan (SHP) administered by PEBA. As the PBM currently engaged by PEBA complies with the requirements of this bill regarding these lists, PEBA indicates that the bill will not have an expenditure impact.

State Revenue

This bill repeals the current PBMs statutes in Article 20 of Chapter 71, Title 38. The bill requires all pharmacy benefits managers to be licensed with the Director of DOI. The fee for the license is \$1,000 for the initial application and \$500 for annual renewal.

DOI anticipates approximately 20 pharmacy benefits managers will receive a license. The fee for the license is \$1,000 for the initial application and \$500 for annual renewal. The initial license fee of \$1,000 multiplied by 20 pharmacy benefit managers total \$20,000 in initial license fees in FY 2020-21. The annual renewal fee of \$500 multiplied by 20 pharmacy benefits managers, totals \$10,000 each year thereafter for the annual renewals.

Additionally, this bill adds PBMs to those who are subject to administrative penalties of \$15,000 for violations of state or federal insurance law and \$30,000 for a willful violation of state or federal insurance laws. As PBMs are newly added to those subject to administrative penalties, the increase in revenue for DOI for the increase in penalties collected is undetermined, beginning in FY 2020-21.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director