

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4596 by Kolkhorst (Relating to certain contracts between pharmacy benefit managers and the Employees Retirement System of Texas, the Teacher Retirement System of Texas, The Texas A&M University System, or The University of Texas System.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code by adding a section relating to certain contracts with pharmacy benefit managers (PBMs) and the Employees Retirement System (ERS), the Teacher Retirement System (TRS), the Texas A&M University System, or The University of Texas System. The new contract requirements include:

- (1) PBM must be selected on established criteria, not based on lowest bid.
- (2) PBMs must contain documentation for each instance when therapeutic interchange is used.
- (3) PBMs must disclose in writing the financial and medical reasons for the addition, removal, or change in placement of a prescription drug from the drug formulary used by the PBM.
- (4) Identification of any specialty drugs on the formulary used by the PBM, along with the specialty drug's associated costs, discounts and other fees related to services performed by the PBM.
- (5) Disclosure of any policy, practice, or business relationship of the PBM that could conflict with the performance of their duties.
- (6) Disclosure of any cost savings initiatives used by the PBM.
- (7) PBM must state the maximum allowable cost (MAC) to be used by the PBM.
- (8) Identification and labeling of specific information contained in the contract that is considered proprietary information belonging to the PBM.
- (9) Disclosure of the conditions under which the PBM may sell the data, if the PBM has a revenue-sharing agreement concerning the sale of data related to the services performed under the contract.
- (10) The right to audit the PBM.
- (11) Definition of what information the PBM must provide auditors.

The bill would take effect September 1, 2009.

ERS, TRS, The University of Texas System, and The Texas A&M University System all report that the provisions of the bill would not have a significant fiscal impact.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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