

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 2, 2013**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB3262** by Miller, Doug (Relating to pharmacy benefit managers contracting with the child health plan program, the Medicaid managed care program, and health plans for certain government employees.), **Committee Report 1st House, Substituted**

**The bill would result in an indeterminate cost to the state.**

The bill would amend the Government Code, Chapter 531 and the Insurance Code, Chapters 1551, 1575, 1579 and 1601 to require a state health plan pharmacy benefit manager (PBM) contract to include a maximum allowable cost for pharmacy claim reimbursements for each covered medication. The bill would require a PBM to update maximum allowable costs at an interval not to exceed seven days. The bill would require a PBM contract to include a process for retail pharmacies to challenge a maximum allowable cost. The bill would apply these requirements to Medicaid, the Children's Health Insurance Program (CHIP), TRS-Care, TRS-Active Care, the state employee Group Benefits Program health plan administered by the Employees Retirement System, and plans administered to employees by the Texas A&M University System and the University of Texas System.

The bill applies only to a pharmacy benefits manager contract executed or renewed on or after the effective date of the bill. The bill takes effect September 1, 2013.

According to the Employees Retirement System, the provisions of the bill could require increased administrative cost increases to the PBM which cannot be determined at this time. However, any costs would be passed on to the Group Benefits Program in the form of higher administrative costs.

According to the Teacher Retirement System, the provisions of the bill could require significant administrative cost increases to the PBM which cannot be determined at this time. However, any costs would be passed on to the TRS-Care program.

The bill adds new requirements related to outpatient pharmacy benefits provided through Medicaid managed care regarding the use of maximum allowable cost lists. Managed care organizations (MCOs) contracted with the Health and Human Services Commission (HHSC) develop their own reimbursement rates and methodologies. The maximum allowable cost lists used by MCOs and any subcontracted pharmacy benefit managers are considered proprietary and are not available to HHSC. Without access to the maximum allowable cost lists, HHSC cannot determine the impact of the provisions in the bill related to those lists. HHSC expects that the provisions would increase the amounts MCOs are required to reimburse pharmacy providers under Medicaid managed care; those increases would result in increases to the capitation rates

paid to the MCOs, which would have a significant fiscal impact to General Revenue Funds and Federal Funds. The amount of the increase cannot be determined. Estimated capitation payments under Medicaid managed care total \$2.4 billion in All Funds in fiscal year 2014 and \$2.7 billion in All Funds in fiscal year 2015. Each one percent increase in those capitation payments would increase All Funds expenditures by \$24 million in All Funds, including \$10 million in General Revenue Funds, in fiscal year 2014 and \$27 million in All Funds, including \$11 million in General Revenue Funds, in fiscal year 2015.

The Texas Department of Insurance, the Texas A&M University System, and the University of Texas System anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

### **Local Government Impact**

According to the Teacher Retirement System, the provisions of the bill could result in increased plan costs that would be passed along through increased premiums to be borne by school districts or beneficiaries.

No significant fiscal implication to other units of local government is anticipated.

**Source Agencies:** 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 529 Health and Human Services Commission, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 515 Board of Pharmacy

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