

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 20, 2021

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB2195 by Kolkhorst (Relating to the relationship between pharmacists or pharmacies and pharmacy benefit managers or health benefit plan issuers, including relationships governed by contracts with managed care organizations under Medicaid and the child health plan program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2195, As Introduced : an impact of \$0 through the biennium ending August 31, 2023.

However, the Health and Human Services Commission indicates the bill would limit a pharmacy benefit manager's ability to recoup payment from a pharmacy after claims adjudication; these costs cannot be determined at this time.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from School Employees UGIP Trust Fund 855
2022	(\$16,300,000)
2023	(\$16,900,000)
2024	(\$17,400,000)
2025	(\$17,900,000)
2026	(\$18,400,000)

Fiscal Analysis

The bill would amend the Government Code, Occupations Code, and Insurance Code relating to the relationship between pharmacists or pharmacies and pharmacy benefit managers or health plan issuers, including organizations under Medicaid and the child health plan program. The bill would require a contract between a pharmacy benefit manager (PBM) and a managed care organization that contracts with the Health and Human Services Commission to provide pharmacy benefits under Medicaid or the child health plan program to contain a requirement that the PBM have a fee schedule that applies to each pharmacy or pharmacist with which the

pharmacy manager contracts, prohibits a PBM from directly or indirectly reducing the amount of a claim payment to a pharmacist or pharmacy after adjudication of the claim, and prohibits a health benefit plan issuer from requiring higher accreditation standards or recertification requirements than the state or federal government. The bill would also prohibit a PBM from requiring an enrollee to use a mail order pharmacy, and a health benefit care issuer or pharmacy benefit manager from making it a condition of a contract to restrict the pharmacy/pharmacist from mailing or delivering a drug to a patient on their request. The bill would affect plans entered into or renewed on or after September 1, 2021.

Methodology

Based on information provided by the Teacher Retirement System (TRS), the bill would significantly impact the way PBMs manage the costs of certain specialty drugs. Currently, TRS requires members to purchase all specialty drugs via a specialty mail pharmacy. By prohibiting a PBM from requiring an enrollee to use a mail order pharmacy, costs may go up significantly. Estimated costs to the TRS-ActiveCare plans are \$16.3 million in fiscal year 2022 and \$16.9 million in fiscal year 2023.

According to the Health and Human Services Commission (HHSC), the provisions of the bill would limit a PBM's ability to recoup payment from a pharmacy after claims adjudication in cases where a pharmacy did not meet performance metrics. While HHSC anticipates this would result in an increase in pharmacy claims costs, the agency is unable to determine the cost at this time.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System, 454 Department of Insurance, 529 Hlth & Human Svcs Comm, 710 Texas A&M Univ System Admin, 720 UT Sys Admin

LBB Staff: JMc, AKI, MB, MPUK