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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget Office

H.B. 192
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 192's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Barhorst and Fischer

Local Impact Statement Procedure Required: No

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Highlights

- The Department of Insurance may incur minimal administrative costs regarding the bill's requirements. Any increase in such costs would be paid from the Department's Operating Fund (Fund 5540). The bill allows the Superintendent of Insurance to impose an administrative penalty for violations related to the bill's requirements. Any penalties collected would be deposited into Fund 5540 and be used to defray the costs.
- The bill has no direct fiscal impact to local governments.

Detailed Analysis

Health plan issuer

The bill prohibits a health plan issuer that offers, issues, or administers a health benefit plan that covers pharmacy services, including prescription drug coverage, from requiring a pharmacy, as a condition of participation in the health plan issuer's network, to meet accreditation standards or certification requirements that are inconsistent with or in addition to those of the State Board of Pharmacy. The prohibition applies to health benefit plans that are delivered, issued for delivery, or renewed on or after the bill's effective date and to contracts between health plan issuers and pharmacies entered, modified, or renewed on or after the bill's effective date. Health plan issuer applies to health insuring corporations, multiple employer welfare arrangements, sickness and accident insurers, public employee benefit plans, and pharmacy benefit managers (PBMs).

The bill allows any covered person or pharmacy affected by a health plan issuer's application of unlawful accreditation requirements to file a formal complaint with the Superintendent of Insurance. The bill requires the Superintendent to evaluate such complaints. If the Superintendent determines, based on a complaint or other information available to the

Superintendent, that a health plan issuer or its intermediaries has violated the prohibition related to accreditation standards, the Superintendent must (1) issue a notice of violation to the health plan issuer or intermediary that clearly explains the violation, and (2) impose an administrative penalty on the health plan issuer or intermediary of $1,000 for each violation. The bill specifies that each day that a violation continues after the health plan issuer or intermediary receives notice of violation from the Superintendent is considered a separate violation for the purposes of the administrative penalty. The Superintendent is required to afford the health plan issuer or intermediary an opportunity for an adjudication hearing before imposing an administrative penalty.

The bill allows a health plan issuer or intermediary to challenge the Superintendent's determination that a violation occurred, the Superintendent's imposition of an administrative penalty, or both. The health plan issuer or intermediary may also appeal the Superintendent's determination and imposition of an administrative penalty. The bill also requires any administrative penalty collected under the bill be deposited into the state treasury to the credit of the Department of Insurance Operating Fund (Fund 5540).

Pharmacy benefit manager

The bill requires each PBM to provide a quarterly electronic report in a machine-readable format that is also readable in plain language without the use of software, which must contain all drug claims processed in the previous quarter, including the itemized list required under the bill, to the Superintendent, and the PBM's contracted insurers and plan sponsors, including contracted public employee benefit plans and contracted employers offering a self-insurance program. The bill prohibits any agreement between a PBM and an insurer or plan sponsor, that is entered, amended, or renewed on or after the bill's effective date from prohibiting disclosure of any of the information included in the itemized list required under the bill. A PBM is not required to disclose information deemed proprietary or confidential by a service agreement between the PBM and an insurer or plan sponsor that is entered into before the bill's effective date, and in effect on the date the information would otherwise be submitted as part of the itemized list required by the bill.

The bill prohibits a PBM from retaliating, against a pharmacy in this state that reports an alleged violation of the bill's provisions or exercises a right or remedy under the bill, by taking certain actions. If a pharmacy in this state believes that a PBM has violated the bill's provisions, in addition to any other remedies provided by law, a pharmacy may file a formal complaint and provide evidence related to the complaint to the Superintendent. The bill requires the Superintendent to adopt rules for the purposes of implementing and administering the bill's provisions.

Fiscal effect

The bill may increase the Department of Insurance's administrative costs regarding responsibilities associated with the bill's requirements. If there is any increase in such costs, they are likely to be minimal. Any general administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). The bill allows the Superintendent to impose administrative penalties as specified under the bill. Any penalties collected for such violations under the bill would be deposited to the credit of Fund 5540 and be used to defray the costs. The bill has no direct fiscal impact to local governments. However, the bill may increase health insurers' and PBMs' administrative costs to comply with the bill's requirements.

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