OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 8 (with AM0422 and AM1014)

136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 8's Bill Analysis

Version: In House Health

Primary Sponsor: Rep. A. White

Local Impact Statement Procedure Required: Yes

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Highlights

Insurance

- Requiring health benefit plans to provide coverage for biomarker testing under the bill's specified circumstances may increase costs to the state to provide health benefits to employees and their dependents. The state pays for such testing currently in some circumstances, but the coverage does not meet the requirements under the bill. The state's costs to provide such benefits are paid from the Health Benefit Fund (Fund 8080), which receives funding through state employee payroll deductions and state agency contributions that are paid from the GRF and various other state funds.
- The required coverage is likely to increase costs of providing health benefits to employees and their dependents for at least some counties, municipalities, townships, and school districts statewide. The magnitude of the fiscal impact is uncertain due to lack of information on the number of local government employers that will be affected by the requirement. Any local government that already provides the required coverage would experience no effect on costs.

Medicaid

- Requiring Medicaid coverage for biomarker testing under specified circumstances is likely to increase costs to the Ohio Department of Medicaid (ODM). The extent of this increase will depend on what tests may already be covered by ODM, and how many Medicaid recipients receive tests newly covered because of the legislation.

Reporting requirement

- Requiring the Superintendent of Insurance and the Medicaid Director to each submit to the standing committees on insurance matters in the House of Representatives and the Senate, an annual report relating to provider reimbursement and cost savings due to the bill's coverage of biomarker testing would increase administrative costs to both departments.

Detailed Analysis

Health insurance and Medicaid coverage

The bill requires health benefit plans and Ohio's Medicaid Program to provide coverage for biomarker testing for the following purposes beginning on the effective date of the bill: (1) diagnosis, (2) treatment and appropriate management of a disease or condition, or (3) ongoing monitoring of a disease or condition. The bill requires health benefit plans and Ohio's Medicaid Program to cover biomarker testing ordered and deemed medically necessary by the qualified treating health care provider working within the provider's scope of practice for the specified purposes, when the test is supported by certain medical and scientific evidence as specified under the bill. The bill specifies that if there are multiple available biomarker tests that offer comparable information and include all necessary biomarkers, health benefit plans and the state's Medicaid Program must cover at least one such test. While this would enable health benefit plans or the state's Medicaid Program to potentially select a preferred test in the scenario if multiple biomarker tests offer comparable information, the bill permits a provider to request a coverage exception for any reason. The bill requirements must not be construed to require coverage of biomarker testing for screening purposes by health benefit plans or the state's Medicaid Program.

The bill defines "biomarker testing" as the analysis of tissue, blood, or another biospecimen for the presence of a biomarker (a term also defined in the bill), and includes, but is not limited to, single-analyte tests, multiplex panel tests, protein expression, and whole exome, genome, and transcriptome sequencing. "Health benefit plans" subject to the requirement are defined in section 3922.01 of the Revised Code, and include sickness and accident insurers, health insuring corporations, nonfederal government health plans, and specified other types of plans.

The bill requires a health plan issuer or the state's Medicaid Program to provide the coverage in a manner that limits disruptions in care, including the need for multiple biopsies or biospecimen samples. The bill also imposes certain requirements on the handling of appeals of a biomarker testing coverage determination.

The bill includes a provision that exempts its requirements from health insurance mandate restrictions in continuing law.[1]

[1] Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income

The bill stipulates the intent of the General Assembly associated with the bill's required coverage for "appropriate biomarker testing" is "the goal of producing long-term health care cost savings and improving health outcomes for Ohioans." The bill specifies that the General Assembly does not intend to create a landscape which allows manufacturers and administrators of biomarker tests to substantially increase pricing for existing and new biomarker tests as a result of the coverage requirements for certain health insurance markets.

Reporting requirements

The bill requires the Superintendent of Insurance and the Medicaid Director to each separately submit to the standing committees on insurance matters in the House of Representatives and the Senate reports relating to provider reimbursement and cost savings due to the bill's coverage of biomarker testing. The required reports must first be submitted within 90 days of the bill's effective date, again by February 1, 2027, and subsequently by February 1 annually thereafter. Each report must include certain information as specified under the bill.

Fiscal effect – insurance provisions

The bill's requirements may increase costs of the state and are likely to increase costs of at least some local governments' employee health benefit plans, thereby increasing costs to provide health benefits to employees and their dependents. According to a Department of Administrative Services (DAS) official, the state plans' costs of providing coverage for biomarker tests was approximately $665,000 during the past five years, or an average of about $133,000 per year. The official also noted that those costs included biomarker tests that are considered experimental, and the coverage does not meet the requirements under the bill.

The state provides self-insured health benefits plans in which the state pays all benefit costs directly while contracting with private insurers to administer the benefits.[2] The state's costs to provide health benefits to employees and their dependents are paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which come out of the GRF and various other state funds.

LBO staff could not determine the magnitude of the fiscal impact of the required coverage on local governments due to lack of information on the details related to such plans, including the cost and the number of tests that may be utilized by covered persons under such plans. If some local government plans already provide the required coverage, the bill would not affect their costs. However, based on the approach below, LBO staff believe the estimated costs associated with the required coverage on local governments could amount to as much as $0.6 million per year or more statewide. The actual costs could be lower or significantly higher than this amount, depending on the cost of such tests and the number of tests that may be utilized by covered persons under local governments' employee health benefit plans per year.

Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state.

[2] According to Health Insurance 2022: The Cost of Health Insurance in Ohio's Public Sector (PDF), prepared by the State Employment Relations Board, approximately 78% of public sector employers in Ohio, including the state, self-insured their health benefit plans.

According to Biomarker Test for Molecularly Targeted Therapies (PDF),[3] "biomarker tests have many different uses in clinical practice including disease screening tests (e.g., prostate-specific antigen), diagnostic tests (e.g., pathologic or histologic assessment of a tissue biopsy), treatment and post treatment monitoring tests (detection of treatment complications or subsequent disease advancement), and prognostic tests for estimating risk or time to clinical outcomes (e.g., aggressive cancers have a poorer prognosis than more indolent cancers). In addition, biomarker tests are used to predict patient response to specific treatments." According to the Ohio Annual Cancer Report 2025 (PDF), published by the Ohio Department of Health in March 2025, in 2022, a total of 71,417 new incidents of various types of cancer cases were diagnosed and reported among all Ohioans or at an age-adjusted rate of 462.8 per 100,000 Ohio population.

According to the National Cancer Institute website, "The cost of biomarker testing varies widely depending on the type of test you get, the type of cancer you have, and your insurance plan." The National Conference of State Legislatures (NCSL) has published a report[4] that includes the statement that "A study by Milliman found the average test cost insurers $224." The Milliman study found that the cost to Medicaid was lower, $79 per test.

The cost of the bill's requirements would depend on the number of individuals covered by a government-sponsored health benefits plan who might need such a test. Based on data from the 2023 American Community Survey (ACS), published by the U.S. Census Bureau, approximately 57.4% of Ohioans received health insurance coverage through their employer. Assuming this percentage applies to the estimated 54,996 individuals who may be diagnosed with cancer using aforementioned Ohio statistics, approximately 31,568 of such individuals also received health insurance coverage through their employer. Based on estimates from the U.S. Bureau of Labor Statistics (BLS), 1.4% of the Ohio nonfarm workforce was employed by state government (not including those employed by an educational institution), 4.1% were employed by local government (not including those employed by an educational institution or a local government hospital), and 5.1% were employed in local government education. Applying those BLS percentages to the 31,568 figure estimated above, roughly 453 such individuals may be covered by the state health benefit plans, 1,294 by a local government health benefit plan, and 1,610 by a school district health benefit plan. Assuming these individuals utilized one biomarker test per plan year and the $224 price per test cited by the Milliman study above, the estimated costs to school districts could be roughly $361,000 per year, and the cost to other local governments could be roughly $290,000 per year. The cost to the state would be roughly $99,000 per year based on this estimation approach, but as noted above some such tests are currently covered under the state's plans.

These numbers are illustrative, rather than actual estimates. LBO economists are uncertain about the number of tests an eligible patient might need in a year, and there is significant uncertainty about the number of such patients covered by a government-sponsored

[3] National Academies of Sciences, Engineering, and Medicine. 2016. *Biomarker tests for molecularly targeted therapies: Key to unlocking precision medicine*. Washington, D.C.: The National Academies Press. doi: 10.17226/21860.

[4] Biomarkers and Advancements in Cancer Care, published on the National Conference of State Legislatures (NCSL) website.

health plan. In addition, cancer patients are likely not the only type of patient that could qualify for testing. These sources of uncertainty mean that costs could be lower or significantly higher than these illustrative numbers.

The reporting requirement would increase the Department of Insurance's administrative costs. Any increase in such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

Fiscal effect – Medicaid provisions

The bill will likely increase costs for the Ohio Department of Medicaid (ODM) to the extent that the coverage requirements for biomarker testing require additional coverages beyond what ODM currently already covers for Medicaid recipients. Currently, all medically necessary services are covered by Medicaid, including biomarker testing. Federal law also requires Medicaid to cover all drugs approved by the U.S. Food and Drug Administration. However, Medicaid is exempted by federal Early and Periodic Screening, Diagnostic, and Treatment guidelines from covering experimental or investigational treatments or services. For any biomarker testing which is classified as a medically necessary procedure, the testing would already be covered by ODM and the legislation would not have a fiscal impact. For testing which is not currently covered by Medicaid but would be covered because of the bill, ODM would incur increases in costs to provide coverage of these tests. In general, ODM will receive reimbursement from the federal government for about 64% of the costs for allowable services approved by the U.S. Centers for Medicare and Medicaid Services.

The reporting requirements set by the bill would increase ODM's administrative costs involved in obtaining the requisite information and preparing the required reports. In general, ODM will receive reimbursement from the federal government for about 50% of these increased administrative costs.

Synopsis of Fiscal Effect Changes

- The amendment (AM1014) may slightly decrease costs as compared to the As Introduced (with AM0422) version of the bill, due to the option for health benefit plans and the state's Medicaid Program to cover at least one biomarker test if multiple available biomarker tests offer comparable information and include all necessary biomarkers. While this provision could minimally decrease costs for health benefit plans or the state's Medicaid Program if they were able to elect to cover a less expensive option in this scenario, the bill's stipulation that a provider may request a coverage exception for any reason may mitigate any potential decrease in costs for health benefit plans and the state's Medicaid Program.

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