Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 505
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 505's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Barhorst and Stewart

Local Impact Statement Procedure Required: No

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Highlights

- The bill's requirements would increase the Department of Insurance's administrative costs. Any increase would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill's requirements would likely increase administrative expenses for the Ohio Department of Medicaid (ODM), which are typically reimbursed by the federal government at a rate of 50%. The bill may also lead to increased service costs for the provision of prescription drugs. Service costs are typically reimbursed by the federal government at a rate of approximately 63%.

Detailed Analysis

Health plan issuer

The bill prohibits a health plan issuer that offers, issues, or administers a health benefit plan that provides 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. Under the bill, health plan issuers include health insuring corporations, multiple employer welfare arrangements, sickness and accident insurers, public employee benefit plans, and pharmacy benefit managers (PBMs). 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 into, modified, or renewed on or after the bill's effective date.

The bill specifies that any covered person or pharmacy affected by a violation under the bill by a health plan issuer or one or more of its intermediaries may bring a civil action against the health plan issuer or the intermediary for compensatory damages and injunctive or other equitable relief.

Pharmacy benefit managers

The bill requires, on or before the 15th day of each month, each PBM to provide to the Superintendent of Insurance and to its contracted insurers and plan sponsors, including contracted public employee benefit plans and contracted employers offering a self-insurance program, an electronic report in a machine-readable format of all drug claims processed the previous month. The bill specifies information that must be included in the monthly report. The bill prohibits any agreement between a PBM and an insurer or plan sponsor, including a service agreement that is entered into, amended, or renewed on or after the bill's effective date from prohibiting disclosure of any of the information that must be included in the report. However, a PBM is not required to disclose information deemed proprietary or confidential by the 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 report. The bill also specifies a minimum drug reimbursement amount and dispensing fee that a PBM must pay to a contracted pharmacy for a claim for a drug product dispensed under insurance policies on or after the 91st day following the bill's effective date.

The bill's requirements and prohibitions may increase PBMs' administrative costs. The effect on the state's and local governments' health benefit plans' drug costs would depend on the terms of each plan's contract with a PBM. The provisions that allow any covered person or pharmacy affected by a violation under the bill to bring a civil action against the health plan issuer or the intermediary may increase certain court costs. However, any increase would be offset by court filing fees.

Superintendent of Insurance

The bill requires the Superintendent, not later than 90 days after the bill's effective date, to calculate a minimum dispensing fee to be paid for each drug product dispensed. The fee must equal the average acquisition cost in this state to dispense the drug product, based on data collected by a confidential survey of the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in Ohio by the Department of Medicaid. The Superintendent must also update the fee calculation when the Ohio Department of Medicaid (ODM) updates the survey data. The bill requires the Superintendent to publish the amount of the minimum dispensing fee and the dates that such fee applies, including updated information on a publicly accessible website maintained by the Department of Insurance. The bill also requires the Superintendent to adopt rules in accordance with Chapter 119 of the Revised Code (i.e., a rulemaking procedure by which the state agency must publish a public notice of its intention and conduct a public hearing on its proposed rules) for the purposes of implementing and administering the bill's requirements.

The bill's requirements would increase the Department of Insurance's administrative costs. Any increase would be paid from the Department of Insurance Operating Fund (Fund 5540).

Department of Medicaid

The bill prohibits ODM's managed care plans or single pharmacy benefit manager (SPBM) from requiring a pharmacy, as a condition of participation in Medicaid's pharmacy network, to meet accreditation standards or certification requirements that are inconsistent with or in addition to those of the State Board of Pharmacy. The bill additionally specifies that any pharmacy or enrollee affected by a violation of these rules may bring a civil action against the offending organization or intermediary for compensatory damages and injunctive relief. If ODM or the SPBM was subject to any such damages, these would lead to costs for the Department in the amount of the damages.

The bill additionally states that the SPBM will be required to provide the ODM Director a monthly report meeting the same requirements the bill sets for private PBMs. Namely, the report must be an electronic report in a machine-readable format of all drug claims processed the previous month. The report must include details including the actual acquisition cost of each drug, the brand name or generic nature of each drug, and further information about the drug's acquisition.

The bill requires ODM to, within 90 days of the bill's effective date, calculate a minimum dispensing fee, and publish this fee amount on a public website. This fee will be based on the average acquisition cost in Ohio to dispense that drug, based on data ODM collects and receives under existing law. Using this data, ODM will calculate a minimum dispensing fee, and be required to initiate a confidential survey of the cost of dispensing drugs incurred by pharmacies.

The standards and requirements set by the bill would likely increase administrative costs for ODM to comply with the reports and calculations specified by the bill. Administrative expenses are typically reimbursed by the federal government at a 50% rate. If any of the changes in the minimum dispensing fee for a prescription set by the bill lead to increased service expenditures for Medicaid prescription drug coverage, these costs would be incurred by the SPBM. As the SPBM is a managed care entity of ODM, any such costs would eventually be realized by ODM as increased service expenditures. To the extent there were any increase in service costs, the expense would be a shared state and federal expense. In general, the federal government reimburses approximately 63% of Medicaid service costs.

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