



DEPARTMENT OF AUDITS AND ACCOUNTS

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Honorable Burt Jones
Chairman, Senate Insurance and Labor Committee
327-A Coverdell Legislative Office Building
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
Senate Bill 313 (LC 33 8241S)

Dear Chairman Jones:

The bill establishes various new regulations on pharmacy benefit managers (PBMs) associated with prescription medication choices, pharmacy choices, handling of manufacturer rebates, and other items. Every three months, PBMs would be required to report to the Office of the Commissioner of Insurance (OCI) all drugs reimbursed at 10 percent above or below the national average drug acquisition cost. PBMs would also be prohibited from spread pricing, reimbursing pharmacies at an amount lower than an affiliate pharmacy, or imposing a point-of-sale or retroactive fee.

The bill requires OCI to conduct financial examinations and compliance audits of PBMs to ensure compliance with the provisions of this chapter and rules and regulations implemented pursuant to this chapter. PBMs are required to pay the costs of the examinations and audits. If OCI conducts the reviews with state employees, the agency may retain the fees charged. If contractors are used, the PBM will pay the contractor directly. The bill also requires the Department of Audits and Accounts to collect data to produce an annual report showing the total number of prescriptions processed by each PBM and any amount owed to the state as a result of PBMs engaging in practices prohibited by the bill.

Impact on Department of Community Health (DCH) Health Plan Costs

A DCH contractor with access to pharmacy claims for the State Health Benefit Plan (SHBP), Medicaid Fee-for-Service (FFS), and Medicaid Care Management Organizations (CMO) analyzed the impact of the bill's prohibition on spread pricing (charging the health plan an amount that is different than the amount paid to the pharmacy). It is expected that PBMs for the SHBP and Medicaid FFS plans do not engage in spread pricing; therefore, the provision would have no impact

on those plans. The PBMs serving the state’s care management organizations are believed to engage in spread pricing. The DCH analysis estimated the potential savings from the elimination of spread pricing at \$13.9 million.

Impact on the Office of the Commissioner of Insurance Costs

The bill includes a number of duties (including licensure, promulgation of rules and regulations, investigation, hearing disputes, receiving and impositions of fines and penalties) performed by current staff. OCI does not expect the additional work in these areas to require additional staff. OCI does anticipate additional state costs related to financial examinations/compliance audits and the PBMs’ quarterly reports of reimbursements in relation to the national average drug acquisition cost.

- *Financial Examinations and Compliance Audits* – The bill also requires OCI to conduct financial examinations and compliance audits every three years for each of the current 65 PBMs. PBMs are required to pay for the reviews, but OCI will require state funding due to the bill dictating that PBM payments are to be remitted to the Office of the State Treasurer.

The required funding to OCI will depend on the entity that performs the audits and examinations. As shown in **Table 1**, OCI estimates that it can provide the services in-house with a staff of four for approximately \$615,000. In an alternate model, OCI would only hire a single audit coordinator and contractors would be responsible for conducting the audits. The cost for this model is estimated at \$100,387 for an OCI audit coordinator; the PBMs would pay the contractor directly for the audit and/or examination.

Table 1: Cost to the Commissioner of Insurance¹

| Scenario One | In-House |
|---|-----------------------|
| Salary/Benefits for Audit Supervisor and Three Auditors | \$614,843 |
| Scenario Two | Contract Model |
| Salary/Benefits for OCI Position + Contracted Auditors | \$100,387 |

¹ The cost would be recovered from the PBMs.

- *Quarterly PBM Reports* – OCI will be collecting drug reimbursement amount information from all PBMs every three months. OCI officials indicated that they had no information system platform capable of storing this type of data and providing public access. OCI estimated one-time costs of acquiring an appropriate system at \$200,000, with annual support costs of \$100,000.

Impact on the Department of Audits and Accounts (DOAA) Costs

DOAA does not expect any additional costs from this bill. The collection and reporting of data as required by this bill can be performed with existing personnel and infrastructure.

Impact on State Revenue

The bill increases the cost of PBM licenses obtained from OCI. The cost of an initial license increases from \$500 to \$2,000, while the renewal of a license increases from \$400 to \$1,000. As shown in **Table 2**, we estimated an increase of \$39,000 in fee revenue attributable to renewal fees paid by the 65 PBMs. License fee revenue is remitted to the Office of the State Treasurer.

Table 2: License Revenue

| | Number of PBMs | Revenue Increase |
|-------------|-----------------------|-------------------------|
| Renewal Fee | 65 | \$39,000 |

Sincerely,



Greg S. Griffin
State Auditor



Kelly Farr, Director
Office of Planning and Budget