



Legislative Council Staff

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Final Fiscal Note

Drafting Number:	LLS 21-0210	Date:	September 24, 2021
Prime Sponsors:	Rep. Lontine; Rich Sen. Kirkmeyer; Moreno	Bill Status:	Signed into Law
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Bill Topic: **COMPETITIVE PHARMACY BENEFITS MANAGER MARKETPLACE**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill directs the Department of Personnel to contract with a pharmacy benefit manager for state employee health insurance using a reverse auction procurement process. It affects state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the enacted bill.

Summary of Legislation

The bill directs the Department of Personnel and Administration (DPA) to enter into a contract with a pharmacy benefit manager (PBM) for the administration of state employee health insurance through a reverse-auction process prescribed by the bill, and then use that platform to audit claims. State employee insurance offered through Kaiser Permanente is exempt from this requirement. It creates avenues for other public and private health insurance plans to participate jointly with the state.

PBM auction. By November 1, 2022, DPA must obtain a technology platform, and associated services from the platform operator, capable of conducting a reverse-auction for a PBM. The platform must be equipped with certain automation and price comparison capabilities specified in the bill. In addition, the platform must be able to perform automated line-by-line review of all invoiced PBM drug claims to identify any deviations from the terms of the PBM contract. DPA may perform a market check during the term of the PBM contract to evaluate the incumbent PBM's drug pricing for continuing competitiveness.

The first auction must be completed and the PBM services contract awarded with an effective date of July 1, 2023; however, the DPA may elect to not to proceed with the outcome of the auction if the lowest bid is not less than the projected cost for the incumbent PBM.

Fee. The platform, operator services, claim review, and market checks will be paid for by a per-prescription fee paid by the winning PBM directly to the platform operator.

Joint participation. Any other self-funded public sector health plan may use the processes and procedures established in the bill individually, collectively, or as a joint purchasing group with a state employee health insurance plan. After completion of the first PBM reverse auction, self-funded private sector health plans with substantial participation by Colorado employees may also participate in a joint purchasing pool with state employees for subsequent PBM reverse auctions. Any health plans participating in a purchasing pool retain autonomy over their drug formularies and benefit designs.

Background

DPA entered into its current PBM contract for state employee health insurance on July 1, 2020. The contract term is up to five years, with a state option to renew or opt out on an annual basis. About 19,000 state employees receive pharmacy benefits through health plans that use the state's PBM contract, accounting for about 380,000 pharmacy claims per year. Current procurement rules allow for, but do not require, the use of reverse auctions in contract solicitation.

State Expenditures

The bill will affect expenditures in DPA to contract with a PBM for state employee health insurance, but the net impact on state expenditures is not estimated. No upfront costs are needed to procure the technology platform, which will be paid directly by the winning PBM; however the fiscal note assumes the cost of the platform will be incorporated into the PBM's rate. These platform costs may be offset by savings on prescription drugs if the reverse auction process is successful in achieving a lower bid than traditional procurement methods, or if the claim verification capability prevents overcharges that otherwise would not been identified. For informational purposes, the technology platform is expected to cost between \$100,000 and \$600,000, with additional ongoing costs; actual costs will be determined by DPA through a vendor procurement process.

PBM costs are paid with funds from all state agencies, shared between the state and state employees, with the split determined on an annual basis through the budget process.

Local Government

Local governments that opt to participate in a purchasing group with the state employee benefit plan may experience a change in expenditures; this will be on a voluntary basis and any change in expenditures will be subject to the terms of the agreement.

Effective Date

The bill was signed into law by the Governor and took effect on June 7, 2021.

State and Local Government Contacts

Health Care Policy and Financing
Personnel

Information Technology
Regulatory Agencies

Law