

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 993 - HB 1818**

April 1, 2011

**SUMMARY OF BILL:** Prohibits a drug that is not a tamper-resistant opioid from being considered therapeutically equivalent to a tamper resistant opioid and prohibits such substitution. Prohibits health benefit plans from excluding or limiting the benefits for a brand name tamper resistant opioid unless the exclusion or limitation is the same as or less restrictive than an exclusion or limitation that applies to benefits for other prescription drugs under the plan. Coverage of a brand name tamper resistant opioid is not subject to prior authorization if there is not a generic tamper resistant opioid available on the market and shall not be contingent on the previous use of a drug product that is not a tamper resistant opioid. The provisions of the bill will become effective January 1, 2012.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$11,873,100**

**Increase Local Expenditures – Exceeds \$100,000\***

**Increase Federal Expenditures - \$22,896,400**

**Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums for benefit plans that currently offer this drugs under limitations and other approval processes. It is estimated to exceed \$100,000.**

**Assumptions:**

- According to the Department of Commerce and Insurance, any costs incurred to review and approve additional forms, policies, certificates, and contracts to ensure compliance will not be significant and can be accommodated within existing resources without an increase appropriation or a reduced reversion.
- The bill will prohibit any health benefits plan from placing prior authorization criteria, quantity limits, or therapeutic duplication edits on these products.
- According to TennCare, these drugs would also bypass the program's monthly prescription limits because there are other drugs that are not subject to the limitation. There will be an increase in the brand drugs over the lower-priced generic and the total number of prescriptions for each enrollee.

- TennCare assumes there will be a five percent increase in utilization due to limits being removed. TennCare based its estimated impact on two drugs, Embeda and Oxycontin. TennCare receives approximately 2,352 prescription requests for Embeda each year and approves 114 of those, resulting in 2,238 denials filled by a generic. Five percent growth will result in 2,350, of which 3.5 percent, or 82, will be new prescriptions and 2,268 will be existing prescriptions at the additional costs.
- The price of Embeda is \$434 and the price of the generic is \$39. The increase in expenditures for Embeda will be \$931,448 [(82 x \$434) + (2,268 x \$39)].
- TennCare receives approximately 59,856 prescription requests for Oxycontin each year and approves 8,779 of those, resulting in 51,077 denials filled by a generic. Five percent growth will result in 53,631, of which 10.8 percent, or 5,792, will be new prescriptions and 47,839 will be existing prescriptions at the additional costs.
- The price of Oxycontin is \$662 and the price of the generic is \$39. The increase in expenditures for Oxycontin will be \$33,638,001 [(5,792 x \$662) + (47,839 x \$39)].
- The total increase to the TennCare program will be \$34,569,449 (\$931,448 + \$33,638,001) of which, \$11,673,066 will be state funds at a rate of 33.767 percent and \$22,896,383 will be federal funds at a match rate of 66.233 percent.
- According to the Department of Finance and Administration, prior authorization and quantity limitations that generally apply yield a reduction in benefit payments of approximately \$200,000 a year to the state sponsored public sector plans.
- It is assumed that local governments that do not currently opt into the state sponsored plans but provide health insurance benefits to employees will also see an increase in expenditures estimated to exceed \$100,000.
- Private health insurance impact: Most health benefit plans offer some type of limitations or private approval for drugs to keep costs down. If these limitations and processes are prohibited, the costs to the plans will increase and will be shifted to enrollees through increased premiums. This increase is estimated to exceed \$100,000.

\*Article II, Section 24 of the Tennessee Constitution provides that: *No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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