



March 31, 2014

SUMMARY OF ORIGINAL BILL: Requires a pharmacy benefits manager (PBM), prior to a PBM or covered entity placing a drug on a maximum allowable cost (MAC) list, to:

- Ensure there are at least three generically equivalent versions of that drug which are available for purchase by all pharmacies in this state from national or regional wholesalers; and
- Ensure the drug is not obsolete or temporarily unavailable or listed on a drug shortage list.

If a drug doesn't meet the above requirements it cannot be placed on a MAC list and any drug that is currently on a MAC list which doesn't meet such requirements has to be removed from the MAC within three business days after the PBM or covered entity becomes aware that the drug no longer meets such requirements. Requires a PBM or covered entity to provide all contracted pharmacies with all MACs used for each specific pharmacy and information explaining the methodology used to determine such MACs.

Prohibits a PBM from setting a MAC for any multi-source generic drug or medical product or device it places on a MAC list in an amount which is below the amount found in the source used by the PBM or covered entity to set the cost, nor can a PBM or covered entity include the pharmacist's dispensing fee or any other professional fee unrelated to the product, in calculating the MAC for any multi-source generic drug or medical product or device. Requires PBMs and any covered entity to create a process by which a pharmacy may appeal the MAC for a particular drug or medical product or device. If the appeal presented is found valid by the PBM or covered entity, and the cost was determined to be too high, the PBM or covered entity must provide retroactive reimbursement for such costs in the next payment cycle. PBMs and covered entities must place information on their websites which explain the appeals process. Violations of this act are punishable by the fines listed in Tenn. Code Ann. § 56-2-305.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$157,209,400

Increase Federal Expenditures - \$10,665,000

Increase Local Expenditures – Exceeds \$8,942,700

CORRECTED IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue - \$176,817,100
Increase Business Expenditures - \$176,817,100

Other Fiscal Impact - Any increase in revenue experienced by the pharmaceutical industry will be offset by an increase in expenditures experienced by insurance providers. Insurance providers will likely increase premium rates to plan subscribers to offset expenditures. Due to multiple unknown factors, the extent of any premium increase is unknown.

SUMMARY OF AMENDMENT (015133): Deletes all language after the enacting clause. Requires a pharmacy benefits manager (PBM), prior to a PBM or covered entity placing a drug on a maximum allowable cost (MAC) list, the PBM must find that the drug is generally available for purchase by pharmacies in this state from a national or regional wholesaler.

If a drug doesn't meet the above requirements it cannot be placed on a MAC list and any drug that is currently on a MAC list which doesn't meet such requirements has to be removed from the MAC within five business days after the PBM or covered entity becomes aware that the drug no longer meets such requirements. Requires a PBM or covered entity to provide all contracted pharmacies with all MACs used for each specific pharmacy and information explaining the sources used to determine such MACs.

Specifies that medical products and devices subject to the requirements of this part are limited to the medical products and devices included as a pharmacy benefit under the pharmacy benefits contract. Requires PBMs and any covered entity to create a process by which a pharmacy may appeal the MAC for a particular drug or medical product or device. If the appeal presented is found valid by the PBM or covered entity, the PBM or covered entity must provide retroactive reimbursement for such costs in the next payment cycle. PBMs and covered entities must place information on their websites which explain the appeals process. Violations of this act are punishable by the fines listed in Tenn. Code Ann. § 56-2-305. Prohibits pharmacies from sharing MACs with certain third party entities. This act will take effect January 1, 2015.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- According to the Bureau of TennCare, this will have no significant impact on plans administered by the Bureau.
- Plans administered by the Department of Finance and Administration, Division of Benefits Administration may experience an increase in costs due to the appeals process authorized by this legislation; however, any such increase is estimated to be not significant.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

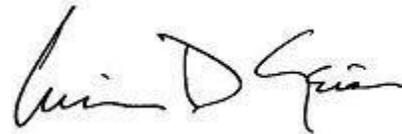
NOT SIGNIFICANT

Assumption for the bill as amended:

- Any increase in costs for insurance companies will result in corresponding increase in revenue to pharmacies.
- Any impact is estimated to be not significant.
- This will have no significant effect on commerce or jobs in this state.

CERTIFICATION:

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



Lucian D. Geise, Executive Director

/jdb