

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1890 - SB 1942

March 15, 2020

SUMMARY OF ORIGINAL BILL: Prohibits a pharmacy benefits manager (PBM) and third parties from discriminating against a 340B entity or a pharmacy that participates in a health plan as an entity authorized to participate under 42 U.S.C. § 256b in a manner that prevents or interferes with the patient's choice to receive those drugs from the pharmacy; or a 340B entity regarding reimbursement for pharmacy-dispensed drugs by reimbursing at a rate lower than that paid for the same drug to pharmacies that are not 340B entities, and shall not assess any fee or other adjustment upon the 340B entity, or exclude a 340B pharmacy from the PBM's or third party's pharmacy network, on the basis that the 340B entity participates in the program described in 42 U.S.C. § 256b.

Creates a private cause of action for a pharmacy or 340B entity against a PBM or third party who violates this section.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$10,620,500/FY20-21 and Subsequent Years

Increase Federal Expenditures - \$20,504,500/FY20-21 and Subsequent Years

Other Commerce Impact – The proposed legislation will likely impact the contracts the Division of TennCare and the Division of Benefits Administration have with providers; however, due to multiple unknown factors, an exact fiscal impact cannot be reasonably determined.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue - \$31,125,000/FY20-21 and Subsequent Years

Increase Business Expenses –
Less than \$31,125,000/FY20-21 and Subsequent Years

SUMMARY OF AMENDMENTS (015717, 017056): Amendment 015717 adds language to the original bill that exempts the TennCare program, CoverKids and Cover RX programs.

Amendment 017056 deletes the provision that creates a private cause of action for a pharmacy or 340B entity against a PBM or third party who violates this section.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures – Exceeds \$12,000/FY20-21

Other Fiscal Impact – The proposed legislation will likely impact contracts the Division of Benefits Administration has with providers; any fiscal impact is estimated to exceed \$12,000 in FY20-21.

Assumptions for the bill as amended:

- Based on information provided by the Division of Benefits Administration, the state group insurance program's PBM has several contracts with 340b entities that will have to be amended.
- The increase in state expenditures for these changes is estimated to exceed \$12,000 in FY20-21.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENTS:

Other Commerce Impact – Due to multiple unknown factors, the exact impact to commerce and jobs cannot be reasonably determined.

Assumption for the bill as amended:

- Due to multiple unknown factors, such as negotiated rates with PBMs and 340b entities, current rebate amounts, and specific drug prices, an exact impact to commerce and jobs cannot be reasonably determined.

CERTIFICATION:

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



Krista Lee Carsner, Executive Director

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