TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 987 - HB 1179

March 2, 2019

SUMMARY OF BILL: Removes the use of state-funded pharmacy benefits managers (PBM). Removes language that authorizes the Division of TennCare (Division) to direct a PBM to set pharmacy reimbursement rates and dispensing fee schedules necessary to maintain an adequate retail pharmacy network and increase the cost effectiveness of state pharmacy purchases. Removes the requirement that the Department of Finance and Administration (F&A) is required to monitor and audit PBMs. Removes the section that makes documents confidential related to pharmaceutical company discounts, rebates, pricing, or other financial arrangements with PBMs. Further removes the section that allows the Division to negotiate supplemental manufacturer rebates.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – $44,580,700

Increase Federal Expenditures – $3,533,600

Increase Local Expenditures – $6,750,000*

Assumptions:

- Based on information provided by the Division, removing the use of state-funded PBMs could result in an increase in expenditures due to a decrease in rebate collections.
- The Division updated the process in which PBMs negotiated supplemental rebates in 2014. In FY14-15, the Division collected $43,418,796 in supplemental rebates and in FY17-18 they collected $63,340,381. The $19,921,585 ($63,340,381 - $43,418,796) increase in supplemental rebates over the four-year period resulted in an increase in average collections of $4,980,396 ($19,921,585 / 4) each year. It is assumed these savings will not be realized with the removal of the PBM.
- Medicaid expenditures receive matching funds at a rate of 65.375 percent federal funds to 34.625 percent state funds. Of this amount $1,724,462 ($4,980,396 x 34.625%) will be in state funds and $3,255,934 ($4,980,396 x 65.375%) will be in federal funds.
- The Division of Benefits Administration (Benefits Administration) actuary estimated the overall fiscal impact in FY19-20 to be between $75 to $85 million, or 13 to 15 percent of pharmacy claims. Fiscal Review Committee staff cannot verify the validity of this estimate.

- If Benefits Administration no longer monitors or audits PBMs, the recurring decrease in state expenditures associated with less oversight is estimated to be $131,750.
- This estimate will assume an increase in expenditures of $75,000,000 due to the removal of the state's PBM based upon the Benefits Administration actuary estimate.
- It is estimated that 52 percent of members are on the State Employee Plan, 39 percent are on the Local Education Plan and 9 percent are on the Local Government Plan.
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of $31,200,000 ($75,000,000 x 52.0% x 80.0%).
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of at least $12,065,625 [($75,000,000 x 39.0% x 75.0% x 45.0%) + ($75,000,000 x 39.0% x 25.0% x 30.0%)].
- According to Benefits Administration, some state plan members' insurance premiums are funded through federal dollars. It is estimated that 0.89 percent of the state share of the state plan is funded with federal dollars, resulting in a recurring increase in federal expenditures estimated to be $277,680 ($31,200,000 x 0.89%).
- The net recurring increase in state expenditures for Benefits Administration is estimated to be $42,856,195 ($31,200,000 - $277,680 + $12,065,625 - $131,750).
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be $6,750,000 ($75,000,000 x 9.0%)
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total mandatory increase in local expenditures is estimated to exceed the $6,750,000 increase to the state plan.
- The total increase in state expenditures is estimated to be $44,580,657 ($1,724,462 + $42,856,195).
- The total increase in federal expenditures is estimated to be $3,533,614 ($3,255,934 + $277,680).
- The Department of Health does use a PBM, however, the proposed legislation will not impact any programs or policies of the Department; therefore, any fiscal impact is estimated to be not significant.
- The proposed legislation will not impact any programs or policies of the Department of Commerce and Insurance; therefore, any fiscal impact is estimated to be not significant.

IMPACT TO COMMERCE:

Increase Business Revenue – $54,864,300

Increase Business Expenditures – Less than $58,864,300

Assumptions:

- Pharmacy providers will experience a recurring increase in business revenue for providing services estimated to exceed $54,864,271 ($44,580,657 + $3,533,614 + $6,750,000).
- For companies to retain solvency, any increased expenditures will be less than the amount of revenue collected.
- The estimated increase in business expenditures is estimated to less than $54,864,271 in FY19-20 and subsequent years.

*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.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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