

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2016 REGULAR SESSION**

MEASURE

2016 BR NUMBER **1192**

SENATE BILL NUMBER **117/GA**

RESOLUTION NUMBER _____

AMENDMENT NUMBER _____

SUBJECT/TITLE **An ACT relating to pharmacy benefit management.**

SPONSOR **Senator Max Wise**

NOTE SUMMARY

FISCAL ANALYSIS: IMPACT NO IMPACT INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: STATE LOCAL FEDERAL

BUDGET UNIT(S) IMPACT: **Cabinet for Health & Family Services; Dept. of Insurance; Personnel Cabinet**

FUND(S) IMPACT: GENERAL ROAD FEDERAL RESTRICTED AGENCY _____ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2015-2016	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES		Indeterminable	Indeterminable	Indeterminable
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

() indicates a decrease/negative

MEASURE’S PURPOSE: The purpose of the measure is to require pharmacy benefit managers to obtain a license and to establish an appeals process for contracted pharmacies regarding the maximum allowable cost pricing as determined by pharmacy benefit managers.

PROVISIONS/MECHANICS: Section 1 amends KRS 304.9-020 to define pharmacy benefit manager (PBM).

Section 2 creates a new section of KRS 304.9 to require a pharmacy benefit manager to obtain a license.

Section 3 creates a new section of KRS 304.9 to establish licensure and application requirements for pharmacy benefit managers; to require administrative regulations for the licensing process; and to provide for fees to cover the costs of enforcement.

Section 4 creates a new section of KRS 304.9 to require pharmacy benefit managers to adhere to the other subtitles of KRS Chapter 304.

Section 5 amends KRS 304.17A-161 to define maximum allowable cost and to amend the

definition of pharmacy benefit manager.

Section 6 amends KRS 304.17A-162 to provide for an appeal process, price updates, and administrative regulations and to require review of the maximum allowable cost at least every seven days instead of 14 days.

Section 7 creates a new section of KRS Chapter 205 to require a pharmacy benefit manager who contracts with a Medicaid managed care organization to comply with the provisions of the bill and to exempt a pharmacy benefit manager who contracts directly with the Department for Medicaid Services from the provisions of the bill.

FISCAL EXPLANATION: The Cabinet for Health and Family Services estimates that the bill would result in a minimal impact to the Medicaid fee-for-service (FFS) plans due to the exemption of pharmacy benefit managers for the Medicaid FFS plans from the provisions of the legislation. However, the potential increase to the Medicaid budget from increased costs to the Medicaid managed care organizations (MMCO) is indeterminable because the exact impact of the bill on MMCO capitation rates is currently not available. The Cabinet does not know how much, if any, of these potential costs can be absorbed as the Centers for Medicare and Medicaid Services bases its approval of the capitation rate on what are deemed actuarially sound capitation rates. The Cabinet estimates that the cost increase to the MMCOs would be from \$14.9 million to \$16.1 million.

The Kentucky Department of Insurance (DOI) also provided information. The DOI has existing appeals tracking and licensure processes in place that could be adapted to accommodate the requirements of the bill. The Information Technology Branch of the DOI estimates that updates to the system related to the legislation will take approximately 40 days to develop and cost approximately \$25,000. The updates can be handled with existing staff at the DOI with the assistance of the Commonwealth Office of Technology. The DOI would not require that any new staff be hired to handle the investigation of the appeals or the licensure of the pharmacy benefit managers.

The Personnel Cabinet consulted the actuarial firm for the Kentucky Employees Health Plan (KEHP) about the potential fiscal impact of the legislation. The actuarial analysis estimated that the legislation may result in an increased cost to the Kentucky Employees Health Plan (KEHP) between \$2 million and \$4 million. The estimate is derived from a discount reduction on generic drugs between .5% and 1%. The calculated estimate relates to the limits on how and when PBMs can adjust pricing on certain drugs as the market changes.

DATA SOURCE(S): Cabinet for Health & Family Services; Dept. of Insurance; Personnel Cabinet
PREPARER: Miriam Fordham NOTE NUMBER: 157 REVIEW: JRS DATE: 3/23/2016