

Kentucky Department of Insurance
Financial Impact Statement

- I. Mandating health insurance coverage of BR42 / HB398, is not expected to materially increase administrative expenses of insurers, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The proposed bill mandates the following:
- a. Prohibits an Insurer/PBM from requiring an Insured to pay a cost sharing amount for pharmacy or pharmacist services (pharmacy services) that is greater than the amount the insured would've paid if the services had been purchased without coverage under the HBP;
 - b. Prohibits an Insurer/PBM from requiring an Insured to pay cost sharing that is greater than what was paid at the point of sale;
 - c. Prohibits an Insurer/PBM from requiring an Insured to use a mail-order pharmaceutical pharmacy;
 - d. Prohibits an Insurer/PBM from requiring an Insured to pay cost sharing for pharmacy services received from a nonaffiliated pharmacy that is greater than what would otherwise be imposed if the patient used an affiliate pharmacy or mail order pharmacy;
 - e. Requires all Insurers/PBMs that utilize a pharmacy network to ensure that the network is reasonably adequate and accessible for the provisions of pharmacy services. This includes an adequate number of accessible pharmacies that are not mail-order pharmacies and that convenient pharmacies shall be at most 30 minutes or 30 miles from each enrollee's residence;
 - f. All Insurers/PBMs to file with the Commissioner an annual report describing the pharmacy network. The Commissioner may review and approve the compensation program of Insurers/PBMs to ensure reimbursements are fair and reasonable and that the program doesn't impede the maintenance of reasonably adequate and accessible pharmacy networks;
 - g. Prohibits an Insurer/PBM from reducing payment for pharmacy services under a reconciliation process to an effective rate of reimbursement. This prohibition shall include the use of generic effective rates, dispensing effective rates brand effective rates, remunerations fees or any other mechanism that reduces or aggregately reduces payment for pharmacy or pharmacist services.
 - h. Prohibits an Insurer/PBM from retroactively denying a claim or seeking any refunds or recoupments after adjudication of a claim, including claims for the cost of a medication or dispensed product and claims for services that are deemed ineligible for coverage unless the original claim was submitted fraudulently, or the pharmacy received an actual overpayment;
 - i. Prohibits an Insurer/PBM from assessing any fees against the pharmacy that are related to a claim for pharmacy services including a fee for the receipt of processing a claim, development of a claim processing services in a network or participation in a network;
 - j. Prohibits an Insurer/PBM from reimbursing a pharmacy for a drug or service in an amount, less than the amount the Insurer/PBM reimburses a pharmacy affiliate for providing the same services or from reimbursing for a pharmacy ingredient drug less than the nationwide average acquisition cost
 - k. Prohibits an Insurer/PBM from denying a pharmacy an opportunity to participate in a pharmacy network at a preferred participation status that is located within a geographic coverage area of the health plan and is willing to meet reasonable terms and conditions
 - l. Prohibits PBMs from engaging or participating in spread pricing under any contract in KY.
 - m. Requires the PBM to report to the commissioner on a quarterly basis rebate information.

The proposed legislation for all insured health benefit plan coverages, excluding Medicaid and state employees, is not expected to materially increase administrative expenses of Insurers. It is our assumption that Insurers will have this information readily available and the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

The proposed BR42 / HB398, as described above, will increase premiums, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in premiums for health benefit plans, not including state employee plans, is approximately \$0 to \$1.90 per member per month (PMPM). This represents an increase of approximately 0% to 0.4% or approximately \$0 to \$8.9 million for all fully insured policies in Kentucky, not including state employees, due to the increased costs for health plans.

The proposed BR42 / HB398, as described above, will increase the total cost of health care in the Commonwealth, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in the total cost of health care in the Commonwealth for health benefit plans, is approximately \$0 to \$1.90 per member per month (PMPM). This represents an increase of approximately 0% to 0.4% or approximately \$0 to \$8.9 million for all fully insured policies in Kentucky, not including state employees, due to the increased costs for health plans.


Our analysis included use of data and statistics from the report "Pharmacists Survey: Prescription Drug Costs Skewed by Fees on Pharmacies, Patients" done by the National Community Pharmacists Association (NCPA), a report by the California Health Benefits Review Program based on analysis of similar legislation in California, L&E's experience with PBM audits for other states, L&E's prescription drug pricing model, and a 2018 Insurer annual data report provided to us by the Kentucky Department of Insurance (KY DOI).

Note: Our estimated increase was driven primarily by prohibiting Insurers and PBM's from being able to require insureds to use a certain mail-order pharmacy or to pay a higher cost sharing for using a nonaffiliated pharmacy and also limiting Insurers and PBM's ability to restrict pharmacy networks with the proposed any willing pharmacy provision. Unfortunately, we are unable to estimate the impact for the remaining mandates included in BR 42 primarily due to the lack of available and reliable data regarding PBM contracts as well as the magnitude of "clawbacks" and payment reductions PBMs typically obtain during the reconciliation processes.

We do acknowledge the additional transparency that would result in PBM contracting due to the prohibition of spread pricing models; however, it is unclear if those cost savings would remain indefinitely. It is our understanding that PBM's would have other methods of generating revenue when moving to a pass-through pricing model, one example being an increase in admin fees.

Disclosure: L&E made several assumptions in performing the analysis. Several of these assumptions are subject to material uncertainty and it is not unexpected that actual results could materially differ from these estimates if a more in-depth analysis were to be performed. Examples of uncertainty inherent in the assumptions include, but are not limited to, 1) data limitations, 2) the potential changes in available health benefit plan options and 3) the impact this bill may have on pharmacy fee arrangements.

Disclosure: Due to the material disclosure requirements required therein, we must acknowledge that the content of this report may not comply with Actuarial Standard of Practice No. 41 Actuarial Communications.


Brian Stentz, A.S.A. M.A.A.A.
LEWIS & ELLIS, INC.
March 5, 2020


(Signature of Commissioner/Date)
FIS Actuarial Form 6-03