Kentucky Department of Insurance
Initial Cost Defrayal
Statement

After reviewing BR 120/ HB 512 as currently drafted, the Department's initial determination is that this bill does not contain a mandated health benefit that would result in the state being required to make payments to defray costs under 42 U.S.C sec 18031(d)(3) and 45 C.F.R. sec 155.170, as amended.

Therefore, a cost defrayal analysis will not be performed.

Sharon P. Clark

2/06/2026

(Signature of Commissioner/Date)

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Fiscal Impact Report – BR120/HB512

Rx Rebate Pass Through

PREPARED FOR THE KENTUCKY DEPARTMENT OF INSURANCE

FEBRUARY 6, 2026

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Introduction

Lewis & Ellis, LLC (L&E) was engaged by the Kentucky Department of Insurance (KY DOI) to perform a fiscal impact analysis of BR120/HB512, which would mandate the following:

1. An insured's cost sharing[a] for a prescription drug shall be calculated at the point of sale; and
2. All rebates received or estimated to be received by the insurer or pharmacy benefit manager (PBM) in connection with the dispensing or administration of a prescription drug to an insured shall be passed through as follows:
    a. The cost sharing, except when in the form of a copayment, charged to the insurer shall be calculated based on a prescription drug price that is reduced by at least 85% of the rebates received or estimated to be received; and
    b. Any rebates not used to reduce cost sharing, per (a), shall be passed on to the health benefit plan and used to reduce the premiums charged by the health benefit plan to insureds.

Kentucky Revised Statute (KRS) 6.948[b] mandates that the sponsor of any bill proposing a health benefit mandate must request a health mandate fiscal impact statement from the Kentucky Department of Insurance (DOI). This statement must be completed within 30 days of the request and should include the following:

1. An assessment of the impact of the mandated health benefit on administrative expenses, premiums, and the overall cost of healthcare including any potential future cost savings.
2. Supporting documentation, including studies, written opinions, calculations, and citations that validate the findings and conclusions.
3. An estimate of any potential cost savings in the future, along with an explanation of why the bill would or would not lead to such savings, and
4. A certification confirming the accuracy of the information provided.

Additionally, KRS 6.948 mandates that the sponsor of any bill proposing a health benefit mandate must also request a federal cost defrayal impact statement from the Kentucky DOI. This statement must be completed within 30 days of the request. The federal defrayal cost impact statement shall:

1. Indicate whether a bill or amendment that contains a mandated health benefit may result in the state being required to make payments to defray costs.
2. If applicable, indicate which provision(s) of the bill or amendment may trigger the requirement to make payments to defray the costs.
3. If applicable, include an estimate of the payment amount that the state may be required to make if the bill or amendment is enacted into law.

L&E is tasked with performing the health mandate fiscal impact and federal cost defrayal impact analyses for the Kentucky insurance market, excluding the Kentucky Employee Health Plan

[a] Where "cost sharing" does not include copayments.

[b] As amended by 2024 House Bill 635.

(KEHP) and the Kentucky Medicaid programs. The fiscal impact analyses for these programs are performed by other entities. For this analysis, L&E reviewed literature, gathered statistics from public sources[c], and used data from the KY DOI's 2024 Insurer Annual Data report.

Administrative Expense Impact Analysis

The proposed bill is estimated to have **an immaterial (within +/- 0.05%) impact on administrative expenses**, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. It is our assumption that insurers either already provide coverage for the mandated benefits or the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

Premium Impact Analysis

To estimate BR120/HB512's premium impact, L&E evaluated data from KY DOI's 2024 Insurer Annual Data report and publicly available sources. L&E used the collected information and data to estimate a low-end and high-end range for the aggregate premium impact.

RECENT STUDIES ON PREMIUM IMPACTS OF SHARING DRUG REBATES AT THE POINT OF SALE

Given the lack of available and reliable data regarding PBM contracts and the pharmaceutical financial benefits PBMs and/or Insurers ultimately receive, L&E relied on recent publicly available research and its experience conducting PBM market conduct exams. Several recent studies have been performed that estimate the impact of "sharing" drug rebates at the point of sale by passing the rebate through to the insured in the form of reduced cost sharing and/or premium. Studies estimated the resulting effect to be a net increase to premium in order for the insurer to finance the reduction in cost-sharing to the insured. One study found that a premium increase of less than $1.50 PMPM would be sufficient to finance the reduction in out-of-pocket drug spending if rebates were shared at the point of sale.[1] Another 2024 study performed on the Arkansas market found that a similar bill did not have a material impact on premium rate increases for Arkansas. [2] Other studies suggested an impact of 0.0% to 1.0% on premium.[3] [4] [5]

OTHER CONSIDERATIONS

Based on actuarial judgment and its experience conducting PBM market conduct exams, L&E also considered the following in addition to the research found:

1. The potential for induced utilization due to the reduction of cost-sharing;
2. The potential for resulting changes in formulary;
3. The potential for changes in the negotiated rebate amounts; and
4. The potential for changes in contracting with PBMs.

[c]Including reports for other states who have considered or passed similar legislation.

RESULTING PREMIUM IMPACT ESTIMATE

Based on L&E's industry knowledge having conducted PBM market conduct exams, actuarial judgment, and the research available, L&E chose a premium impact range of 0.0% to 1.0%.

The following table illustrates the resulting estimated premium impact range.

Premium Impact Calculation		
Assumption	**Low**	**High**
Mandate Premium % Impact (a)	**0.0%**	**1.0%**
Projected 2026 Total Claims Costs PMPM (b)	$626.28	$626.28
Projected 2026 KY Average Loss Ratio (c)[d]	91.1%	91.1%
Projected 2026 KY Average Premium PMPM (d)=(b)/(c)	$687.81	$687.81
Mandate Premium Impact PMPM (e)=(a)*(d)	**$0.00**	**$6.88**
Projected 2026 KY Insured Members[e] (f)	343,644	343,644
Mandate Premium Total Annual Impact (g) = (e)*(f)*12	**$0**	**$28.4M**

Total Cost of Health Care Impact Analysis

L&E defines 'Total Cost of Health Care' as being equal to the sum of the Allowed Cost (i.e., the amount paid by the insurer plus the amount paid by the insured) and the insurer Non-Benefit Expenses. Additionally, as required by KRS 6.948, L&E considered the impact of potential future cost savings.

POTENTIAL FOR FUTURE COST SAVINGS

L&E found no research consensus that Rx rebate pass through practices are cost effective or would produce future cost savings. Based on L&E experience, actuarial judgment, and other cost impact research discussed in prior sections of this report. L&E estimates the impact of potential future savings as a result of the BR120/HB512 to be immaterial (within +/- 0.05%).

RESULTING TOTAL COST OF HEALTH CARE IMPACT ESTIMATE

The proposed bill is estimated to have **an immaterial (within +/- 0.05%) impact on total cost of health care**, including potential future cost savings, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. This estimate differs from the premium impact estimate because the impact of the mandate shifts costs from the insured to the insurer, creating an impact on premiums but not an impact on allowed cost.

Cost Defrayal Impact Analysis

Based on L&E's research and actuarial judgment, L&E determined that this bill does not contain a mandated health benefit that would result in the state being required to make payments to defray costs under 42 U.S.C sec 18031(d)(3) and 45 C.F.R. sec 155.170, as amended. This is

[d] Based on 2024 Insurer Annual Data report provided by the KY DOI. Excludes KEHP and Medicaid.

[e] Excluding the Kentucky Employee Health Plan (KEHP) and the Kentucky Medicaid programs.

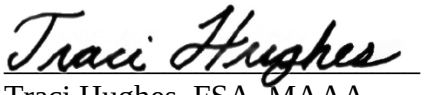
based on the understanding that cost sharing mandates and provider reimbursement (including rebate) mandates do not trigger defrayal.

L&E has disclosed its defrayal determination based on its earnest interpretation of federal guidance available as of the date of this report. However, determination of defrayal is ultimately under the regulatory purview of Centers for Medicare and Medicaid Services (CMS).

Certification of Accuracy

L&E believes the estimates are accurate based on the information disclosed in the report. To the extent that there are material inaccuracies, misrepresentations, or lack of adequate disclosure in the data, the results may be accordingly affected. Several of the assumptions made in this analysis are subject to uncertainty and it is expected that actual results could differ from the calculated estimates.

Robert Dorman, ASA, MAAA
Vice President & Consulting Actuary
Lewis & Ellis, LLC



Traci Hughes, FSA, MAAA
Vice President & Principal
Lewis & Ellis, LLC

2/6/2026
(Signature of Commissioner/Date)

ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations[f], promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States.

Each of these organizations requires its members, through its Code of Professional Conduct[g], to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary

The responsible actuaries are:

- Bobby Dorman, ASA, MAAA, Vice President & Consulting Actuary
- Traci Hughes, FSA, MAAA, Vice President & Principal

These actuaries are available to provide supplementary information and explanation.

Identification of Actuarial Documents

The date of this document is February 6, 2026. The date (a.k.a. "latest information date") through which data or other information has been considered in performing this analysis is February 6, 2026.

Disclosures in Actuarial Reports

- The contents of this report are intended for the use of the Kentucky Department of Insurance. The authors of this report are aware that it may be distributed to third parties. Any third party with access to this report acknowledges, as a condition of receipt, that they cannot bring suit, claim, or action against L&E, under any theory of law, related in any way to this material.
- Lewis & Ellis, LLC is financially and organizationally independent from the health insurers and providers involved in this analysis. There is nothing that would impair or seem to impair the objectivity of the work.
- The purpose of this report is to assist the Kentucky Department of Insurance in assessing the financial impact and federal cost defrayal impact of proposed legislation that includes a proposed health benefit mandate.
- The responsible actuaries identified above are qualified as specified in the Qualification Standards of the American Academy of Actuaries.
- L&E has reviewed the data provided by the insurers and Kentucky Department of Insurance for reasonableness, but the data has not been audited. L&E nor the responsible actuaries assume responsibility for these items that may have a material impact on the analysis. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the results may be accordingly affected.

[f] The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

[g] These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001.

- Several of the assumptions made in this analysis are subject to uncertainty and it is not unexpected that actual results could differ from the calculated estimates.
- L&E is not aware of any subsequent events that may have a material effect on the findings.
- There are no other documents or files that accompany this report.

Actuarial Findings

The actuarial findings of the report can be found in the body of this report.

Bibliography

[1]The Impact of Sharing Drug Rebates at the Point of Sale on Out-of-Pocket Payments for Enrollees in Employer-Sponsored Insurance. Ding, Yao et al. Value in Health, Volume 26, Issue 2, 226 – 233.

[2] Klein, M., & Holzer, H. (2024, January). *Premium Impacts of POS Rebate Implementation in the ACA Market in the State of Arkansas*. Milliman. Retrieved from https://dfr.oregon.gov/pdab/Documents/Constituent-testimony-2.pdf.

[3] Pierce, K., Siborg, J., & Grieco, N. (2023, June 1). *Point-of-sale rebate study for Colorado House Bill 22-1370*. Milliman. Retrieved from https://edge.sitecorecloud.io/millimaninc5660-milliman.

[4] Klein, M., & Petroske, J. (2022, January). *Measuring the impact of point of sale rebates on the commercial health insurance market*. Milliman. Retrieved from https://edge.sitecorecloud.io/millimaninc5660-milliman6442-prod27d5-0001/media/Milliman/PDFs/2022.

[5] Robb, M., & Holzer, H. (2025, January). *Premium Impacts of POS Rebate Implementation in the ACA Market: Indiana* (Milliman White Paper). Milliman, Inc. Retrieved from https://media.milliman.com/v1/media/edge/images/millimaninc5660-milliman6442-prod27d5-0001/media/Milliman/PDFs/2025-Articles/1-29-25_POS-Filing-Impacts.pdf