Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

S.B. 252
133rd General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 252's Bill Analysis

Version: As Reported by Senate Health, Human Services & Medicaid

Primary Sponsors: Sens. Hackett and Craig

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill may minimally increase the Department of Insurance's administrative costs related to regulating health insurers. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill specifies that a health plan issuer that fails to comply with the bill's requirements is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance, which carries civil penalties. Any revenue from the penalties, which would depend on health issuers' compliance with the requirements, would be deposited into Fund 5540 and be used to offset departmental administrative costs.
- The bill's requirements for health plan issuers are likely to increase costs to the state and local governments to provide health benefits to their employees and beneficiaries. LBO does not have an estimate of the magnitude of any such cost increases.

Detailed Analysis

The bill prohibits a health plan issuer that covers the treatment of stage four advanced metastatic cancer from making coverage of a drug that is prescribed to treat such cancer or associated conditions dependent upon a covered person demonstrating either a failure to successfully respond to a different drug or a history of failing to respond to a different drug or drugs. The bill specifies that the prohibition applies only to uses of a drug that is (1) approved by the U.S. Food and Drug Administration to treat such cancers, (2) described in the national comprehensive cancer network drugs and biologics compendium for such treatment, or (3) consistent with the best practices for the treatment of stage four advanced metastatic cancer, as supported by peer-reviewed medical literature.

The bill specifies that a health plan issuer that fails to comply with this requirement is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance and is subject to sections 3901.19 to 3901.26 of the Revised Code.

The bill includes provisions that exempt its requirements from the current restriction on mandated benefits. Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state.

The bill applies to sickness and accident insurers, health insuring corporations, fraternal benefit societies, multiple employer welfare arrangements, and public employee benefit plans.

Fiscal effect

The bill's prohibition is likely to increase utilization of more expensive prescription drugs for such cancer patients, thus increasing costs to the state and local governments to provide health benefits to employees and their dependents. In general, "fail first" drug coverage is used as a tool to manage prescription costs by health issuers. Treatment options for a metastatic cancer involve various types of drugs, some of which are very expensive.[1] For example, according to GoodRx, the prices for some medications that are used to treat advanced breast cancer range between $47 for Megace and about $5,600 for Tykerb.[2] The costs of state self-insured health benefit plans are currently paid out of the State Employee Health Benefit Fund (Fund 8080); funding for Fund 8080 is derived from GRF and non-GRF revenues. LBO staff is unable to quantify the magnitude of the bill's fiscal impact on local governments due to lack of information on the specific prescription benefits offered under their employee health benefit plans. If some of the local government plans already comply with the bill's prohibition those plans would experience no fiscal impact associated with this bill.

The bill may minimally increase the Department of Insurance's administrative costs for regulating health insurers. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). In addition, any civil penalties that may arise from health issuers' failure to comply with the bill's requirements would be deposited into Fund 5540 and be used to offset such costs. Under continuing law, the Superintendent of Insurance may impose a penalty of up to $3,500 per violation (i.e., for each unfair or deceptive act or practice in the business of insurance) but no more than $35,000 in any six-month period, a penalty of not more than $10,000 for a violation of a cease and desist order, or an assessment of one-half of the expenses incurred by the Superintendent to conduct any investigations and hearings related to alleged violations, up to $100,000.

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[1] Source: Breast Cancer Treatment (Adult) (PDQ®)–Patient Version, available at the National Cancer Institute website (https://www.cancer.gov/types/breast/patient/breast-treatment-pdq#_515_toc).

[2] Source: GoodRx Breast Cancer Medications at: https://www.goodrx.com/breast-cancer/drugs.