OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 37

134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 37's Bill Analysis

Version: As Reported by House Health

Primary Sponsor: Rep. Manning

Local Impact Statement Procedure Required: Yes

Ruhaiza Ridzwan, Senior Economist, and other LBO staff

Highlights

- The requirement that a health insurer that provides coverage of a prescription drug under its health benefit plan must provide coverage for that drug to a covered person up to three times during any 12-month period when such drug is dispensed by a pharmacist to a covered person under specified conditions may increase the cost to local governments to provide health benefits to employees and their dependents. Any political subdivision that already provides the required coverage would experience no effect on costs.

Detailed Analysis

Health insurance

The bill requires a health insurer that provides coverage of a prescription drug under its health benefit plan to provide coverage for that drug to a covered person up to three times during any 12-month period, but not in consecutive months, when it is dispensed by a pharmacist without a prescription from a licensed health professional authorized to prescribe drugs. In addition, if one 30-day supply or one standard unit that exceeds a 30-day supply has been dispensed, then for a second or third dispensing of such drug during the same 12-month period the amounts must not exceed a seven-day supply or the lowest available supply package. This requirement is contingent upon certain conditions being met, which include that (1) the pharmacist has a record of the patient having been prescribed the medication before and (2) in the pharmacist's professional judgment, failure to fill the prescription could harm the patient's health. The bill authorizes a pharmacist to dispense such drug, if it is not a controlled substance, up to three times during any 12-month period; this is up from not more than once for each prescription in current law. The bill also prohibits health insurers from imposing cost-sharing requirements for such drug that are greater than those imposed when that drug is dispensed in accordance with a prescription issued by a licensed health professional authorized to prescribe drugs.

The bill specifies that the requirements apply to health insurers as defined in section 3922.01 of the Revised Code, which include health insuring corporations (HICs), sickness and accident insurers, multiple employer welfare arrangements, and public employee benefit plans. The bill applies to health benefit plans that are delivered, issued, modified, or renewed on or after the effective date of the bill. The bill includes a provision that exempts its requirements from an existing law requirement related to mandated health benefit bills.[1]

Fiscal effect

The requirements under the bill have no fiscal impact on the state's health benefit plans, according to a Department of Administrative Services official. However, they may increase costs to local governments' health benefit plans. Any increase in prescription drug coverage to such plans would increase costs to local governments to provide health benefits to employees and their dependents. If some local government plans already provide the required coverage for such drug purchases, the bill would not affect their costs. LBO staff are unable to quantify the bill's fiscal impact on local governments due to lack of information related to prescription coverage under their employee health benefit plans.

Though data limitations do not allow a reliable estimate of the magnitude of the potential increase in costs for local governments, available data do allow the development of an illustrative example that suggests that the costs to local governments may exceed $1 million per year statewide. The Centers for Disease Control and Prevention (CDC) estimates that approximately 10.5% of the U.S. population has diabetes; this estimate includes some who are not aware they have it.[2] Applying this percentage to the estimated Ohio population in 2020 of 11.7 million, approximately 1.2 million Ohioans may have diabetes (including some who may not yet have been diagnosed with the disease). Based on data from the 2018 American Community Survey (ACS), published by the U.S. Census Bureau, approximately 59.1% of Ohioans received health insurance coverage through their employer, suggesting that approximately 709,200 Ohioans may have diabetes who are also covered by health insurance offered through their employer. Recent (i.e., 2019) estimates from the U.S. Bureau of Labor Statistics (BLS) were that 4.1% of the Ohio nonfarm workforce were employed by local government (not including those employed by an educational institution or a local government hospital), and 5.2% were employed in local government education. Applying these percentages to the 709,200 estimate above, the number of Ohioans with diabetes that are covered by a health plan sponsored by a county, municipality, or township may be about 28,981, and the number covered by a school district-sponsored health plan may be about 36,698. Retail prices for insulin medications vary considerably, ranging up to $950 per vial in one source that LBO found. For illustrative purposes, if it is assumed that a diabetic person needs a vial of insulin per month and the price of insulin medication purchased under the bill's requirements was about $180, roughly the median retail price that LBO found,

[1] 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.

[2] National Diabetes Statistics Report, 2020.

and that about 2.5% of diabetic individuals required the medication under the circumstances governed by the bill, the estimated costs to school districts would be roughly $165,000 per year and the cost to other local governments would be roughly $130,000 per year. The sum, $295,000, a plausible statewide cost for local governments for just one disease that could lead to a situation governed by the bill's requirements, suggests that the cost across all such diseases could exceed $1 million annually.

Pharmacy Board

The bill allows a pharmacist to dispense certain drugs not more than three times during any 12-month period rather than once during the same period as under current law provided that those dispensations are not consecutive and that the amount of the drug dispensed subsequent to the first meet lower amount standards. The State Board of Pharmacy does not expect these provisions to create any discernible ongoing licensing and regulatory costs.

Potential violators of continuing law prohibitions as modified by the bill are subject to the Board's disciplinary procedures, as they are in the absence of the bill. The disciplinary sanctions the Board may take include revoking, suspending, or limiting the pharmacist's or intern's identification card; placing the pharmacist's or intern's identification card on probation; refusing to grant or renew the pharmacist's or intern's identification card; or imposing a monetary penalty or forfeiture not to exceed $500. Any forfeiture collected is credited to Fund 4K90, the Occupational Licensing Fund.

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