

JLBC Fiscal Note

BILL # HB 2965

TITLE: covered entities; 340B drugs; distribution

SPONSOR: Lopez

PREPARED BY: Chandler Coiner

STATUS: As Introduced

Description

Under current federal law, the 340B Drug Pricing Program requires drug manufacturers to provide outpatient drugs at significantly discounted prices to qualifying covered entities, such as hospitals and community health centers, that serve a high percentage of low-income patients. This bill would prohibit prescription drug manufacturers from, either directly or indirectly, limiting the acquisition/delivery of a 340B drug to a 340B-covered entity or its contracted pharmacies. The bill would authorize the Arizona State Board of Pharmacy to investigate any complaint of a violation of this prohibition.

Estimated Impact

We estimate the bill could potentially have impacts on: the Arizona Health Care Cost Containment System (AHCCCS); state/local employee health plans; commercial health plans and Insurance Premium Tax (IPT) collections; and the Arizona State Board of Pharmacy. In general, we estimate these impacts would materialize to the extent that drug manufacturers restrict 340B drug acquisition or the use of contract pharmacies under current law, which we lack definitive data on.

1. AHCCCS: We estimate the bill would result in the loss of Medicaid prescription drug rebates to the extent that the bill increases the number of drugs acquired through the 340B program, which are ineligible for these rebates (known as the "duplicate discount" prohibition). Medicaid drug rebates are deposited into the Prescription Drug Rebate Fund, which is used to offset the General Fund costs of the AHCCCS program. While it is possible the savings from the 340B discounts could be passed on to AHCCCS and its contracted health plans—thereby offsetting the loss of the rebates—this would largely be determined by reimbursement rate negotiations between the AHCCCS health plans and the covered entities, which cannot be determined in advance. We have asked AHCCCS for its estimate of the bill's fiscal impact, but we have not yet received a response.
2. State/Local Employee Health Plans: We estimate that, similar to AHCCCS, the bill could result in the loss of prescription drug rebates that are collected by state/local government employee health plans. Although there is no federal prohibition on "duplicate discounts" like there is in the Medicaid context, manufacturer contracts will typically exclude 340B drugs from its rebate program. Any loss in rebates under the state plan would reduce Health Insurance Trust Fund (HITF) revenues. The General Fund pays approximately 50% of the employer share of HITF costs. We have asked the Arizona Department of Administration (ADOA) for its estimate of the bill's fiscal impact on HITF, but we have not yet received a response. A health care information technology and research company estimates that placing limits on manufacturers' contract pharmacy policies (similar to HB 2965) would reduce overall state/local employee health plan rebates in Arizona by between \$(1.9) million and \$(7.5) million. However, because we lack the data necessary to independently verify this estimate, we have asked ADOA to provide its perspective on this analysis.
3. Commercial Insurance and IPT: We estimate that the bill could result in the loss of prescription drug rebates that are collected by commercial health plans for the reasons discussed above. To the extent that the loss of these rebates translates to an increase in premiums, this would generate General Fund revenue from the 2% IPT on health insurance premiums. The health care information technology and research company analysis referenced above estimates an overall reduction in rebates for employer-based health plans in Arizona by between \$(15.3) million and \$(58.9) million, which we cannot independently verify.
4. Arizona State Board of Pharmacy: The board estimates the bill would increase the number of complaints that it receives, but it did not attempt to quantify the number of additional complaints, nor the associated administrative costs. Instead, the board stated the bill would make it less likely that the board is able to comply with an Auditor General recommendation that all complaints be adjudicated within 180 days of receipt.