



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0342 Introduced on February 13, 2025
Subject: Pharmacy Services
Requestor: Senate Banking and Insurance
RFA Analyst(s): Welsh
Impact Date: May 7, 2025 - Updated for Additional Agency Responses

Fiscal Impact Summary

This bill amends provisions related to the operations of Pharmacy Benefits Managers (PBM). The bill restricts PBM reimbursements to pharmacies in certain situations subject to the Department of Insurance (DOI) regulation, prohibits some point-of-sale cost increases by PBMs, changes the circumstances under which PBMs may engage in claims reconciliation activities, and removes a section regarding placement of a drug on the Maximum Allowable Cost List by PBMs. This bill also removes language specifying Articles 21 and 23 of Title 38, Chapter 71 do not apply to the Department of Health and Human Services (DHHS) in its duties administering Medicaid and permits DHHS to assume direct responsibility for all Medicaid pharmacy services. Further, this bill authorizes the Attorney General's Office to bring an action against those in violation of the bill's provisions. This bill takes effect on January 1, 2026, and applies to all contracts entered into, renewed, or amended on or after this date.

This bill will have no expenditure impact on the Office of Attorney General as it anticipates any additional responsibilities can be managed within existing appropriations.

This bill will have no operational or expenditure impact on the Public Employee Benefit Authority (PEBA) or State Health Plan as the State Health Plan is exempt from the provisions of Section 2 of this bill. However, PEBA notes it anticipates there would be a significant fiscal impact to the State Health Plan if this exemption is removed.

DHHS anticipates this bill will have a significant impact on the Medicaid pharmacy program. This bill authorizes DHHS to assume direct responsibility for Medicaid pharmacy services or administer the Medicaid pharmacy benefit program with no more than two Medicaid-managed care organization pharmacy benefit managers. DHHS reports it currently uses five Medicaid-managed care organization pharmacy benefit managers. DHHS anticipates a significant undetermined cost to comply with this requirement. DHHS also this bill's requirement that a PBM must not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than 104 percent of the National Average Drug Acquisition Cost (NADAC) plus a professional dispensing fee will create a recurring expenditure impact of at least \$100,000,000, of which 30 percent, or \$30,000,000, will be from state funds.

This bill will increase DOI's oversight duties, necessitating a new online complaint system with a non-recurring expense totaling approximately \$10,000. DOI also indicated it may need 1.0 FTE

at an expense of \$73,500 of which \$52,500 is salary and \$21,000 is fringe. The total cost to DOI will range from \$10,000 to \$83,500, depending upon whether an FTE is required. DOI will request an increase in General Fund appropriations for these expenses.

Judicial anticipates this bill may increase the caseload in circuit court. Judicial anticipates that the increase in cases can be initially managed within existing appropriations. However, Judicial indicated that if the increase in the caseload is significant, it will request additional General Fund appropriations.

DOI provided an actuarial report from consulting firm, L&E Actuaries & Consultants (L&E), to evaluate the potential impact of expanding this coverage. The actuarial report anticipates this bill will increase premiums in South Carolina's commercial health insurance market by 1.3 to 3.0 percent. Based on additional information provided by DOI, this will result in a premium increase between approximately \$6.60 and \$17.48 per member per month (PMPM).

Insurance premiums are taxed at 1.25 percent. Insurance premium tax revenue is distributed 2.25 percent to Other Funds and 97.75 percent to the General Fund. As this bill may impact premiums, it may increase the General Fund and Other Funds due to an increase in premium tax revenue.

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

This fiscal impact statement has been updated to include an additional response from DHHS and information from the actuarial report obtained by DOI.

Explanation of Fiscal Impact

Updated for Additional Agency Response on May 7, 2025

Introduced on February 13, 2025

State Expenditure

This bill amends provisions related to the operations of PBM. The bill restricts PBM reimbursement of pharmacies in certain situations subject to DOI regulation, prohibits some point-of-sale cost increases by PBMs, changes the circumstances under which PBMs may engage in claims reconciliation activities, and removes a section regarding placement of a drug on the Maximum Allowable Cost List by PBMs. This bill also removes language specifying Articles 21 and 23 of Title 38, Chapter 71 do not apply to the DHHS in its duties administering Medicaid and permits DHHS to assume direct responsibility for all Medicaid pharmacy services. Further, this bill empowers the Attorney General's office to bring an action against those in violation of the bill's provisions.

Office of Attorney General. This bill will have no expenditure impact on the Office of Attorney General as it anticipates any additional responsibilities can be managed within existing appropriations.

Public Employee Benefit Authority. This bill will have no operational or expenditure impact on PEBA or State Health Plan. However, PEBA notes it anticipates there would be a significant fiscal impact to the State Health Plan if this exemption is removed.

Department of Health and Human Services. DHHS anticipates this bill will have a significant impact on the Medicaid pharmacy program. This bill authorizes DHHS to assume direct responsibility for Medicaid pharmacy services or administer the Medicaid pharmacy benefit program with no more than two Medicaid-managed care organization pharmacy benefit managers. DHHS reports it currently uses five Medicaid-managed care organization pharmacy benefit managers. DHHS anticipates a significant, currently undetermined, cost to comply with this requirement. DHHS also anticipates a significant impact from this bill's provision that a PBM must not reimburse a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than 104 percent of the NADAC plus a professional dispensing fee. This bill does not make a distinction regarding the required payment for 340B drugs and non-340B drugs. 340B drugs refer to the Federal 340B Drug Discount Program created in 1992 through the Veteran's Health Care Act. The 340B Drug Discount Program requires drug manufacturers to provide drugs to eligible entities at significantly reduced prices. This program allows Medicaid to pay prices (including dispensing fees) which are less than 104 percent of the NADAC. Therefore, reimbursement at 104 percent of the NADAC would represent a substantial increase to Medicaid and DHHS's operating costs. DHHS anticipates this bill will create a recurring expenditure impact of at least \$100,000,000, of which 30 percent, or \$30,000,000, will be from state funds.

This section of the impact statement has been updated to include an additional response from DHHS.

Department of Insurance. This bill will increase DOI's oversight duties including review of fees, handling complaints, and the promulgation of regulations. DOI indicates it will need to create a new online complaint system and may need to hire 1.0 FTE, a Program Coordinator I. An online complaint system will need to allow attachments and feed directly to DOI's State Base System with the National Association of Insurance Commissioners. The creation of this system represents a non-recurring expense totaling approximately \$10,000. Additionally, if necessary, DOI estimates the recurring cost of 1.0 new FTE Program Coordinator I will be \$73,500 of which \$52,500 is salary and \$21,000 is fringe. The total cost to DOI will range from \$10,000 to \$83,500, depending upon whether an FTE is required. DOI will request an increase in General Fund appropriations for these expenses.

Judicial. This bill may result in an increase in the number of cases in circuit court, which may increase the workload of the court system. The potential increase will depend on the number of entities engaging in conduct that will be deemed contrary to the provisions of this bill and how vigorously the law will be enforced. Judicial anticipates that the increase in cases can be initially

managed within existing appropriations. However, Judicial indicated that if the increase in the caseload is significant, it will request additional General Fund appropriations.

State Revenue

DOI provided an actuarial report from L&E to evaluate the potential impact of this bill on the health insurance premiums in South Carolina. According to the actuarial report, while the bill is not anticipated to increase the underlying unit acquisition cost of prescription drugs, the unit reimbursement to pharmacies is expected to increase for certain claims due to the bill's minimum reimbursement thresholds and enhanced fee requirements. The report also anticipates the bill may increase the use of independent and low-volume pharmacies, particularly in rural areas, as reimbursement disparities that may currently favor PBM-affiliated pharmacies are reduced. While the actuarial report does not anticipate the utilization shifts will materially affect aggregate pharmacy utilization, the report notes that these shifts could change which types of pharmacies fill prescriptions and at what reimbursement level. Based on the assumptions provided, the report estimates this bill will increase South Carolina's commercial health insurance market by 1.3 to 3.0 percent. Additionally, DOI provided that the anticipated premium cost increase to group health insurance plans for the coverage mandated by the bill will be approximately \$6.60 to \$17.48 PMPM. Based on historical health plan data provided by DOI, the estimated 2025 market premium is between \$521 and \$586 PMPM.

Insurance premiums are taxed at 1.25 percent. Insurance premium tax revenue is distributed 2.25 percent to Other Funds and 97.75 percent to the General Fund. As this bill may impact premiums, it may increase the General Fund and Other Funds due to an increase in premium tax revenue.

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

This section of the impact statement has been updated to include information from the actuarial report provided by DOI.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director