

Kentucky Department of Insurance
Financial Impact Statement

- I. Mandating health insurance coverage of BR 1333 / SB 188 SCS 1, will increase premiums, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The proposed bill mandates the following:
- a. Prohibits an insurer/PBM from requiring or incentivizing an insured to use mail-order pharmacy in order to receive coverage.
 - b. Requires reimbursement to a pharmacy/pharmacist for a prescription drug or other service at a net amount that is equal to or greater than:
 - i. the national average drug acquisition cost at the time the drug or service is administered, dispensed, or provided, or the wholesale acquisition cost if the national average drug acquisition cost is not available,
 - ii. plus a dispensing fee that is not less than the average cost to dispense a prescription drug in an ambulatory pharmacy located in Kentucky, as determined by the commissioner, effective January 1, 2027¹. Prior to January 1, 2027, the minimum dispensing fee shall not be less than ten dollars and sixty-four cents (\$10.64) for pharmacies with a pharmacy type of "retail independent" on file with the Kentucky Board of Pharmacy.
 - c. Prohibits designating a prescription drug as a "specialty drug" unless the drug is a limited distribution drug that requires special handling and is not commonly carried at retail pharmacies or oncology clinics/practices.
 - d. Prohibits requiring or incentivizing insured to use pharmacy affiliates, including prohibiting charging less cost sharing for the use of a pharmacy affiliate than for nonaffiliated pharmacies.
 - e. Prohibits not providing equal access and incentives to all pharmacies within the PBM network, including the insured's right to choose the insured's network pharmacy of choice.

Our estimated increase in premiums for health benefit plans, excluding Medicaid and state employees, is approximately \$1.89 to \$25.01 per member per month (PMPM). This represents an increase of approximately 0.2% to 3.3% or approximately \$8.4 to \$110.9 million for all fully insured policies in Kentucky, not including Medicaid and state employees, due to the increased costs for health plans.

The proposed BR 1333 / SB 188 SCS 1, as described above, will increase the total cost of health care in the Commonwealth, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in the total cost of health care in the Commonwealth for health benefit plans, is approximately \$1.89 to \$25.01 per member per month (PMPM). This represents an increase of approximately 0.2% to 3.3% or approximately \$8.4 to \$110.9 million for all fully insured policies in Kentucky, not including Medicaid and state employees, due to the increased costs for health plans.

The proposed BR 1333 / SB 188 SCS 1, as described above, is not expected to materially increase administrative expenses of insurers, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The proposed legislation for all insured health benefit plan coverages, excluding Medicaid and state employees, is not expected to materially increase administrative expenses of Insurers. It is our assumption that Insurers will have this information readily available, and the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

¹ The study is mandated to be repeated every 2 years, adjusting the minimum dispensing fee as appropriate based on the results of each study.

Our analysis included use of data and statistics from the National Community Pharmacists Association (NCPA), the National Center for Policy Analysis, the Lewin Group, the Connecticut and Pennsylvania General Assemblies, the Pharmaceutical Care Management Association, the National Library of Medicine Health Services Research, the National Center for Biotechnology Information, L&E's experience with PBM audits for other states, L&E's prescription drug pricing model, actuarial judgement, and a 2022 Insurer annual data report provided to us by the Kentucky Department of Insurance (KY DOI).

Note: Unfortunately, there is a lack of available and reliable data regarding PBM contracts and the pharmaceutical financial benefits PBMs and/or Insurers ultimately receive. Therefore, our fiscal impact range was estimated to the best of our ability considering our lack of access to such data and information.

Note: We do acknowledge the potential for cost savings due to the additional transparency in PBM contracting. However, it is unclear if those cost savings would remain indefinitely. It is our understanding that PBM's would have other methods of generating revenue, one example being an increase in administration fees.

Note: The results of the mandated cost study in this proposed bill would not be effective until January 1, 2024, and would be highly sensitive to several factors (e.g., underlying data, contractual information, cost inflation, etc.). Therefore, we have based our fiscal impact analysis using the stated initial minimum dispensing fee of \$10.64.

Disclosure: L&E made several assumptions in performing the analysis. Several of these assumptions are subject to material uncertainty and it is not unexpected that actual results could materially differ from these estimates if a more in-depth analysis were to be performed. Examples of uncertainty inherent in the assumptions include, but are not limited to, 1) data limitations, 2) the potential changes in available health benefit plan options and 3) the impact this bill may have on pharmacy fee arrangements.

Disclosure: Due to the material disclosure requirements required therein, we must acknowledge that the content of this report may not comply with Actuarial Standard of Practice No. 41 Actuarial Communications

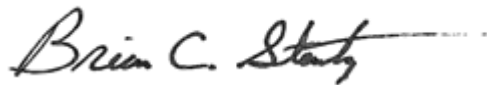


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March 13, 2024



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March 13, 2024



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(Signature of Commissioner/Date)

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