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## FISCAL IMPACT REPORT

SPONSOR	Armstrong/Jaramillo	LAST UPDATED	02/12/2024
		ORIGINAL DATE	01/28/2024
SHORT TITLE	Pharmacy Provider Reimbursement	BILL NUMBER	House Bill 165/aHAFC
		ANALYST	Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Medicaid State Program cost increase		\$65.0 to \$195.0	\$65.0 to 195.0	\$130.0 to \$390.0	Recurring	General Fund
<b>Total</b>		\$65.0 to \$195.0	\$65.0 to \$195.0	\$130.0 to \$390.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Health Care Authority (HCA)

Regulation and Licensing Department (RLD)

Department of Health (DOH)

### SUMMARY

#### Synopsis of HAFC Amendment to House Bill 165

The House Appropriations and Finance Committee (HAFC) amendment to HB165 strikes the appropriation.

The amendment also removes the requirement for studies to be done of “reasonable professional dispensing fees” for community pharmacies, instead requiring that this dispensing fee be no less than the professional dispensing fee paid for outpatient drugs under the Medicaid fee-for-service program.

#### Synopsis of Original House Bill 165

House Bill 165 would amend the Public Assistance Act to require Medicaid Managed Care Organizations to reimburse community-based pharmacists to cover the cost of ingredients for medications dispensed to their Medicaid subscribers (determined by being at least the median

cost for the ingredients at the national level via the National Average Drug Acquisition Cost, or NADAC – see <https://data.medicaid.gov/nadac>) plus a dispensing fee determined through an annual study of an appropriate dispensing fee, (dispensed with the predetermined reimbursement methodology) plus a uniform professional dispensing fee (PDF). Each time a new managed care provider is brought into the Medicaid managed care program, a determination of an appropriate dispensing fee would be made. In the interim, the bill directs the state to provide the existing dispensing fee, which is currently \$10.30, to both Medicaid fee-for-service and MCO members to align with the state plan.

“Community-based pharmacy provider” is defined as being a pharmacy open to prescription filling by patients, not owned by a governmental agency or a company that owns hospital(s) or by an out-of-state pharmacy chain, is not a mail-order pharmacy, and is located in New Mexico or in a nearby cross-border town.

The department (not defined, but likely HCA) would be required to publish a list of all such community-based pharmacy providers each year, beginning on July 1, 2025.

The amended House Bill 165 makes no appropriation from the general fund to the Health Care Authority for the purpose of commissioning an annual study to determine an appropriate dispensing fee for community pharmacies and for increased costs incurred to Medicaid programs associated with likely increases in drug costs and dispensing fees.

The effective date of this bill is July 1, 2024.

## **FISCAL IMPLICATIONS**

According to HCA:

In CY22, 78 community pharmacies received Medicaid payments totaling \$36,741,100 for both fee-for-service (\$1,040,100) and managed care (\$35,701.000).

If the adoption of this bill resulted in a 5 percent increase in the reimbursement to community-based pharmacies (for example), it would cost the Medicaid program an additional \$1,837,100 (\$325,600 GF) in FY24.

Additionally, the work involved in setting a separate PDF [pharmacy dispensing fee] for pharmacies and securing federal approval would require a contract of at least \$100 thousand plus 1 FTE costs for HCA.

Because the increase in payment to pharmacies suggested by this bill would not affect the NADAC price, just the dispensing fee, the bill is unlikely to increase total costs by 5 percent. Using a more likely scenario of an increase in total costs by 1 percent to 3 percent, that would translate into an increase of costs to the state (exclusive of the federal Medicaid share) of \$65 thousand to \$195 thousand.

## **SIGNIFICANT ISSUES**

In a 2023 article in *Health Affairs Scholar*, the authors state that:

Pharmacy accessibility is critical for equity in medication access and is jeopardized by

pharmacy closures, which disproportionately affect independent pharmacies... Individuals relying on independent pharmacies for optimal access were more likely to live in rural areas, be 65 years or older, and belong to low-income households. Another 19.5 percent of individuals in [our study] sample did not have optimal pharmacy access, which corresponds to 59.0 million individuals nationwide. Our findings demonstrate that independent pharmacies play a critical role in ensuring equity in pharmacy access.

Thus, maintenance of the viability of community pharmacies is of especial importance to elderly patients and to dwellers in rural areas, where chain pharmacies are less likely to be available. DOH points to recent closures of several large pharmacy chains and also to the fact that “There are 1,820 licensed pharmacists practicing in New Mexico - this represents a shortage of 482 pharmacists,” compared to “national provider-to-population values.” DOH goes on to point out the importance of community pharmacies for “Patient-centered medication management services that enhance the health and wellness of communities.”

According to HCA, “HB165 would require the establishment of a separate dispensing fee for community pharmacies based on their dispensing costs, which would require federal approval. HCA is uncertain whether a separate dispensing fee for certain providers would be allowed under federal rules.”

## **OTHER SUBSTANTIVE ISSUES**

DOH notes that, “given the importance of pharmacies in general, it is unclear why HB0165 seeks to explicitly exclude government-/hospital-/hospital-corporation-/medical practice-/corporate-owned or mail order pharmacies (i.e., only applies to independent pharmacies) from consideration.”

## **TECHNICAL ISSUES**

HCA points out that “Maintaining increases will have an impact on subsequent budget requests for the department, and HB165 only allows for nonrecurring appropriations in FY25.” For this reason, this appropriation is scored as “recurring.”

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

RLD notes that “Insufficient reimbursement of drug acquisition cost and dispensing fee contributes to difficulties faced by community pharmacies to remain in business, which can negatively impact patient’s access to prescribed drugs and pharmacist services.” They may thus be at a disadvantage compared with mail-order pharmacies and national chain pharmacies.

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