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FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 02/28/03 HB 555

SHORT TITLE: Prescription Drug Co-Payment Standards SB _____

ANALYST: Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Significant See Narrative	Recurring	General Fund Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Public School Insurance Authority (PSIA)
 Retiree Health Care Authority (RHCA)
 Health Policy Commission (HPC)
 General Services Department (GSD)
 Department of Health (DOH)
 LFC Files

SUMMARY

Synopsis of Bill

HB 555 adds a new section to NMSA chapters regarding the Health Care Purchasing Act, Health Insurance Contracts, Group & Blanket Health Insurance Contracts, Health Maintenance Organizations, and Nonprofit Health Care Plans. The new section requires that member co-payments be the same for any prescribed drug, in the same quantity and for the same duration, whether dispensed by retail pharmacy, by mail order, or by other means.

Significant Issues

Currently, a prescription drug variable co-payment system is being utilized by most insurers and employers based on the following categories (Alliance for Health Reform, 2003):

- Brand-name or “preferred drug” price (on a health plan’s formulary),
- Generic brand price, or
- Non-preferred brand-name drug price.

Health plans often contract with pharmacy benefit management companies (PBMs’) to give further discounted prices for their clients if purchasing prescription drugs using mail order or the internet. This option gives clients the choice to buy from local retail pharmacies or mail order, and is a way to keep health care costs down. Mail order prices are usually lower than retail on a per unit basis, although the client often must order a greater quantity of drugs.

Uniform co-payments and days supply raise the following issues:

- Cost impact to the insurers and participants (see fiscal implications).
- Parity between retail pharmacies and mail order (see other substantive issues)

FISCAL IMPLICATIONS

Currently, employees can purchase prescriptions through mail order with a co-pay often less than at a pharmacy. Uniform co-payments could result in higher out-of-pocket costs and higher premiums to employees, retirees and state agencies participating in the benefits programs offered by RHCA, PSIA, & GSD if they lose the cost savings offered by mail order.

However, GSD offers that if retail pharmacies could offer prices competitive with mail order, uniform co-payments would not cause a financial impact for benefit programs or employees.

The following are estimates on the financial impact of uniform co-payments:

RHCA: \$1.4 million in additional financial liability and lost revenue per year. However, RHCA may shift the entire increased liability to participants via increased co-pays, at a total cost of approximately \$2.1 million per year.

PSIA: \$2.4 million increased cost per year due to the difference in mail discount versus retail discount.

GSD: the state will lose discounts of approximately \$600,000 annually, but employee co-pays and premium costs could be reduced if GSD’s proposed amendments to the bill are enacted.

Each of the above agencies utilize an Albuquerque-based mail order facility which could suffer financial hardship if mail order business declines. Proponents of the bill counter that an increase in business at retail pharmacies will lead to increased employment in the small business sector.

DOH: provides that HB 555 may have an unintended negative impact on low or fixed income New Mexicans. It is possible that health insurance companies will establish higher premiums and drug co-pays to assure that differential costs of dispensing are covered. Higher co-payments may cause poorer New Mexicans to forgo the medication they need.

ADMINISTRATIVE IMPLICATIONS

Administrative work to implement this bill would include providing employees with notification of benefit changes, increased customer service calls, and reprinting of ID cards, handbooks and summary plan descriptions.

TECHNICAL ISSUES

PSIA commented that it was unclear if "uniform copayment" means the same copay must be applied to a generic drug, a formulary drug, or a non-formulary drug (the standard approach used currently). If three tier copay plans are prohibited, rebates would essentially disappear and the costs would be absorbed by either the plan or the member. PSIA rebates of approximately \$1.5 million are used to offset premium costs. PSIA suggests an amendment below to address this issue.

OTHER SUBSTANTIVE ISSUES

- Parity between retail pharmacies and mail order

A recent General Accounting Office study¹ on the effects of federal employee health benefit plans using pharmacy benefit management companies (PBMs') found that "enrollees generally paid less in out-of-pocket costs for drugs from the PBMs' mail-order services than they would at retail pharmacies." The study also found that additional PBM savings passed on to plans translated into smaller premium increases for federal enrollees. However, PBMs' practices have generated concerns in the pharmacy industry in a number of areas:

Market Share

The GAO report notes that retail pharmacies may lose market share to PBM mail order pharmacies because some PBMs' use cost incentives and enrollee health information to promote the use of mail order over retail pharmacies. According to retail pharmacists, these cost incentives (rebates and discounts) often impact the calculation by a health plan of prescription co-pays, with lower co-pays used as an incentive for patients to favor mail order over retail.

HB 555 seeks to address this issue by requiring that co-payments be the same for any prescribed drug, in the same quantity and for the same duration, whether the prescription is dispensed by retail or mail order.

Service

As pointed out by the HPC, the outpatient pharmacist plays a critical role in the health outcomes of patients. When the outpatient pharmacy system is used correctly, it can:

- Minimize the risk of drug interactions in patients with multiple prescriptions;
- Reduce the cost of prescription drugs by guiding patients and their physicians to generic and off-patent drugs where appropriate;
- Minimize incidents such as accidental patient overdose and food/drug interactions by counseling the patient on how and when to take the drug; and

- The pharmacist can assist the patient to evaluate what other factors exist in the patient's life that may affect, or be affected, by the drug.

Retail pharmacists also point out that they can provide more timely service, and can exert greater control over quality of medicines because they do not utilize a third party delivery system when providing the product to the patient.

PBMs respond to market share and service issues by pointing out that the co-pays reflect the lower cost of mail order and that they provide a high level of customer service, including toll free numbers for pharmacist consultations and expedited shipping service.

AMENDMENTS

Proposed by GSD:

On page 1, line 24, after the period, insert "The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means."

On page 2, line 9, after the period, insert "The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means."

On page 2, line 18, after the period, insert "The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means."

On page 3, line 3, after the period, insert "The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means."

On page 3, line 12, after the period, insert "The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means."

From PSIA:

PSIA suggest the addition of a sentence to sections 1, 2,3, 4 and 5 that states "Copays may differentiate between generic, brand name non-formulary drugs, and brand name formulary drugs".

GGG/lis

¹ United States General Accounting Office, Federal Employees' Health Benefits: Effect of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies, (Report GAO-03-196), January 2003.