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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/06

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Continue Pharmacy Benefit Manager Research SB SJM 22

ANALYST Lewis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HJM 25.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)
 Department of Health (DOH)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 22 requests that that the New Mexico Health Policy Commission continue research and analysis of pharmacy benefit manager activities and laws that regulate pharmacy benefit managers.

The joint memorial further requests that:

- a report of the findings and recommendations be presented to the Legislative Health and Human Services Committee at its October 2006 meeting; and
- a copy of this memorial be sent to the director of the New Mexico Health Policy Commission.

FISCAL IMPLICATIONS

No funds are appropriated to the Health Policy Commission (HPC) to finance the continuing research and analysis.

SIGNIFICANT ISSUES

According to the Health Policy Commission (HPC), The HPC convened the HJM98 task force in 2005 to study the need to regulate pharmacy benefit managers (PBMs) in New Mexico. The 16-member task force included state agencies, health plans, pharmacists, consumers, and PBMs. After months of discussion, and based on the information gathered through the process, the task force could not reach a consensus on the need to regulate PBMs, and recommended that further research continue led by the HPC.

The HPC commissioners supported the task force recommendations, adding their own recommendation that all PBMs should be registered in New Mexico through an application process which would include: 1) a description of how PBMs will educate the public about their role and the prescriptions that are covered; and 2) disclosure of administrative costs and profits.

The HPC reports that a major concern of the HJM98 task force was financial transparency. Rapidly rising prescription drug prices have stimulated questions and suspicion among consumer advocates, legislators, pharmacists, and others as to how much of the increases might be related to PBMs and their relationship with pharmaceutical manufacturers.

The National Community Pharmacists Association states that transparency would identify potential conflicts of interest and provide a clear roadmap on any savings earned through rebates and discounts. However, PBM representatives argue that the imposition of fiduciary and disclosure requirements on PBMs (is) unworkable, invalid, and unconstitutional.” The Pharmaceutical Care Management Association has said that disclosing contract deals between PBMs and pharmaceutical manufacturers “violates PBMs’ trade secret rights.”

According to the Public Regulation Commission (PRC), pharmacy benefit managers (PBMs) are utilized by insurers, HMOs, government agencies and large, self-insured employers to lower and control the cost of prescription drugs in health care programs. PBMs negotiate with pharmacies to fill prescriptions on behalf of those plans. It is perceived by some that the large PBMs have negotiating advantage over many pharmacies in setting the terms of these contracts. This is similar to the belief that many providers expressed when HMOs first began to dominate health care coverage in New Mexico (i.e. the HMOs have negotiating advantage over the providers).

The PRC poses the question, “How do we protect the pharmacist (particularly the locally owned and operated) without giving up the cost savings achieved by use of PBMs?”

ADMINISTRATIVE IMPLICATIONS

HPC notes that, as the lead agency, it will be responsible for providing intensive staff support to facilitate meetings, follow up on task assignments, and conduct research, as well as writing and distributing the final report.

OTHER SUBSTANTIVE ISSUES

The HPC suggests that it may be necessary to conduct a survey of pharmacists, pharmacies and consumers to determine levels of satisfaction feedback and to address other PBM issues, and that such a survey might require contractual services.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the HPC, there will continue to be many unanswered questions about the activities of PBMs in New Mexico, and what laws may already be in place to oversee those activities. And, without additional, substantiated data it will be impossible to determine the need to regulate or not regulate PBMs.

AMENDMENT

HPC proposes that an appropriation be added to fund a statewide survey by the HPC of pharmacies, pharmacists and consumers.

ML/mt