



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor
Mark V. Afable, Commissioner

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February 11, 2020

Mr. Jeff Renk
Senate Chief Clerk
State Capitol
P.O. Box 7882
Madison, WI 53707

Mr. Patrick Fuller
Assembly Chief Clerk
17 West Main Street
Room 410
Madison, WI 53703

Re: Social and Financial Impact Report—SSA 1 to 2019 Senate Bill 100 and ASA 1 to 2019 Assembly Bill 114—relating to licensure and regulation of pharmacy benefit managers and granting rule-making authority.

Dear Chief Clerks Renk and Fuller:

Pursuant to s. 601.423, Wis. Stat., the Office of the Commissioner of Insurance (OCI) is submitting a social and financial impact report on SSA 1 to 2019 Senate Bill 100 and ASA 1 to 2019 Assembly Bill 114, relating to licensure and regulation of pharmacy benefit managers and granting rule-making authority.

Prescription Drug Charges

OCI has determined that Sections 15 (creating Prescription drug charges) and 21 (amending Pharmacy benefit managers) in the proposed substitute amendments requires a social and financial impact report for the following reasons:

1. Requires a particular benefit design or imposes conditions on cost sharing under an insurance policy, plan, or contract for the treatment of a particular disease, condition, or other health care need, for a particular type of health care treatment or service, or for the provision of equipment, supplies, or drugs used in connection with a health care treatment or service.
2. Imposes limits or conditions on a contract between an insurer and a health care provider, as defined in Wis. Stat. § 146.81 (1).

Social Impact

OCI has reviewed the provisions contained in SSA 1 to 2019 Senate Bill 100 and ASA1 to 2019 Assembly Bill 114, creating and amending various insurance statutes. The health insurance provisions outlined in the bills have the potential to affect Wisconsin consumers who have coverage for, and utilize, prescription medications and devices through fully insured or non-federal governmental self-insured plans. OCI is unable to determine to what extent, if any, the proposals could decrease the cost of prescription pharmaceuticals and

devices to consumers if, at the point of sale, consumers are provided the proposed out-of-pocket cost comparative information. OCI is unable to determine if these proposals could increase access and affordability through the additional requirements including notice of formulary changes, formulary substitutions, and licensure of pharmacy benefit managers.

OCI is unable to determine the number of persons who would be affected by these health insurance provisions. Further, the availability of insurance coverage for consumers without these health insurance provisions is indeterminate.

Financial Impact

OCI is unable to determine to what extent, if any, the newly proposed health insurance provisions will have a financial impact on insurers. The substitute amendments are intended, in part, to increase consumer access to and affordability of prescription drugs and devices through a series of requirements and restrictions. For example, pharmacists may disclose an alternative, less expensive method for purchasing prescription drugs that could reduce costs for consumers. Called the "pharmacist gag clause," federal legislation recently signed into law already prohibits these restrictions of pharmacists for commercial plans. The federal law change will impact guidance from pharmacists for Medicare beneficiaries on January 1, 2020. These provisions may result in increased utilization of prescription drugs and possible improved adherence to prescription drug protocols that could also improve consumers' medical outcomes. Improved overall health may reduce the necessity for more expensive health care treatments. At this time, however, OCI is unable to determine how the proposed substitute amendments will impact the total cost on the health insurance industry in Wisconsin.

While there is a potential for increased affordability and accessibility, the bills also contain numerous requirements for insurers, self-insured plans, and pharmacy benefit managers that have the potential to increase administrative costs. Audit requirements, increased reporting requirements, licensure of pharmacy benefit managers, and limitations on cost sharing may increase insurers' expenses. Further, the bill may limit insurers from utilizing certain methods currently employed to reduce pharmaceutical costs, which may result in additional prescription drug costs for insurers. OCI is unable to determine the extent to which these additional requirements could increase administrative and claims costs. Additionally, OCI is unable to determine how the proposed requirements on insurers may impact premium costs to consumers and employers.

Please contact Olivia Hwang at (608) 209-6309 or Olivia.Hwang@wisconsin.gov if you have any questions.

Respectfully Submitted,



Mark V. Afable
Commissioner

Cc: The Honorable Tony Evers, Governor of Wisconsin