

Fiscal Estimate - 2023 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 23-4894/1	Introduction Number AB-0747
Description creating a Prescription Drug Affordability Review Board, funding for an office of prescription drug affordability, crediting certain amounts to the general program operations account of the office of the commissioner of insurance, granting rulemaking authority, and making an appropriation	
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations</div><div style="width: 33%;"><input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues</div><div style="width: 33%;"><input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs</div></div> Local: <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</div><div style="width: 33%;">5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts</div><div style="width: 33%;"><input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts</div><div style="width: 33%;"><input type="checkbox"/> Cities</div></div></div></div>	

Fiscal Estimate Narratives

OCI 12/8/2023

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Assumptions Used in Arriving at Fiscal Estimate

This bill creates a Prescription Drug Affordability Review Board, whose purpose is to protect Wisconsin residents and other stakeholders from the high costs of prescription drugs. The board consists of the commissioner of insurance and the following members, all of whom are appointed by the governor for four-year terms:

1. Two members who represent the pharmaceutical drug industry, at least one of whom is a licensed pharmacist.
2. Two members who represent the health insurance industry.
3. Two members who represent the health care industry, at least one of whom is a licensed practitioner.
4. Two members who represent the interests of the public.

The bill requires the board to meet in open session at least four times per year to review prescription drug pricing information. The board must provide at least two weeks' public notice of its meetings, make the meeting's materials publicly available at least one week prior to meeting, and provide the opportunity for public comment. The bill imposes conflict of interest requirements for the board relating to recusal and public disclosure of certain conflicts. The bill directs the board to access and assess drug pricing information, to the extent practicable, by accessing and assessing information from other states, by assessing spending for the drug in Wisconsin, and by accessing other available pricing information.

Under the bill, the board must conduct drug cost affordability reviews. The first step in the reviews is for the board to identify prescription drugs whose launch wholesale acquisition cost exceeds specified thresholds, prescription drugs whose increase in wholesale acquisition cost exceeds specified thresholds, and other prescription drugs that may create affordability challenges for the health care system in Wisconsin. For each identified prescription drug, the board must determine whether to conduct an affordability review by seeking stakeholder input and considering the average patient cost share for the drug. During an affordability review, the board must determine whether use of the prescription drug that is fully consistent with the labeling approved by the federal Food and Drug Administration or standard medical practice has led or will lead to an affordability challenge for the health care system in Wisconsin. In making this determination, the bill requires the board to consider a variety of factors, which include the following:

1. The drug's wholesale acquisition cost.
2. The average monetary price concession, discount, or rebate the manufacturer provides, or is expected to provide, for the drug to health plans.
3. The total amount of price concessions, discounts, and rebates the manufacturer provides to each pharmacy benefit manager for the drug.
4. The price at which therapeutic alternatives have been sold and the average monetary concession, discount, or rebate the manufacturer provides, or is expected to provide, to health plan payors and pharmacy benefit managers for therapeutic alternatives.
5. The costs to health plans based on patient access consistent with federal labeled indications and recognized standard medical practice.
6. The impact on patient access resulting from the drug's cost relative to insurance benefit design.
7. The current or expected dollar value of drug-specific patient access programs that are supported by the manufacturer.
8. The relative financial impacts to health, medical, or social services costs that can be quantified and compared to baseline effects of existing therapeutic alternatives.
9. The average patient copay or other cost-sharing for the drug.

If the board determines that a prescription drug will lead to an affordability challenge, the bill directs the board to establish an upper payment limit for that drug that applies to all purchases and payor reimbursements of the

drug dispensed or administered to individuals in Wisconsin. In establishing the upper payment limit, the board must consider the cost of administering the drug, the cost of delivering it to consumers, and other relevant administrative costs. For certain drugs, the board must solicit information from the manufacturer regarding the price increase and, if the board determines that the price increase is not a result of the need for increased manufacturing capacity or other effort to improve patient access during a public health emergency, the board must establish an upper payment limit equal to the drug's cost prior to the price increase.

This bill provides \$500,000 in program revenue in fiscal year 2023-24 for onetime implementation costs associated with establishing an Office of Prescription Drug Affordability in the Office of the Commissioner of Insurance (OCI). The bill provides that the Office of Prescription Drug Affordability is responsible for prescription drug affordability programming within OCI and for overseeing the operations of the Prescription Drug Affordability Review Board.

Additionally, the bill authorizes and funds for the fiscal biennium 16.0 positions for the Office of Prescription Drug Affordability. In the 2023-2025 biennial budget, the Governor requested the Office of Prescription Drug Affordability as well as the 16.0 positions as part of OCI's 2023-25 budget. In the June 2023 Legislative Fiscal Bureau Comparative Budget Recommendations document the 16.0 positions were found to cost \$3,854,100 in program revenue.

Finally, the bill credits to the appropriation account for OCI's general program operations all moneys received from the regulation of pharmacy benefit managers, pharmacy benefit management brokers, pharmacy benefit management consultants, pharmacy services administration organizations, and pharmaceutical sales representatives. The fiscal effect of this portion of the legislation is indeterminate.

Long-Range Fiscal Implications