



January 28, 2021

Mr. Michael J. Queensland
Senate Chief Clerk
State Capitol
P.O. Box 7882
Madison, WI 53707

Assembly Chief Clerk
Attn: Julie Martyn
17 West Main Street
Room 410
Madison, WI 53703

Re: Social and Financial Impact Report—2021 Senate Bill 3 and Assembly Bill 7—relating to licensure and regulation of pharmacy benefit managers and granting rule-making authority.

Dear Chief Clerk Queensland and Ms. Martyn:

Pursuant to Wis. Stat. § 601.423, the Office of the Commissioner of Insurance (OCI) is submitting a social and financial impact report on 2021 Senate Bill 3 and Assembly Bill 7, 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 (Pharmacy benefit managers) in the proposed bills 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 2021 Senate Bill 3 and Assembly Bill 7, 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 bills will have a financial impact on insurers. The legislation is 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 bills 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, these bills 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 Sarah Smith at (608) 209-6309 or Sarah.Smith2@wisconsin.gov if you have any questions.

Respectfully submitted,



Mark V. Afable
Commissioner

Cc: The Honorable Tony Evers, Governor of Wisconsin