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## Health Care & Wellness Committee

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### HB 1465

**Brief Description:** Concerning cost-sharing fairness.

**Sponsors:** Representatives Riccelli, Corry, Simmons, Tharinger, Leavitt, Bateman and Pollet.

#### Brief Summary of Bill

- Requires health plans to calculate an enrollee's coinsurance or deductible payment for each covered prescription drug at a price that is reduced by all rebates received or to be received in connection with the dispensing or administration of the prescription drugs.
- Prohibits pharmacy benefit managers from deriving any income for pharmacy benefit management services provided to a carrier except from a pharmacy benefit management fee.

**Hearing Date:** 2/1/23

**Staff:** Kim Weidenaar (786-7120).

#### Background:

A pharmacy benefit manager (PBM) acts as an intermediary between the entities with which it contracts and pharmaceutical manufacturers to administer the drug benefit portion of a health plan. A PBM processes claims, provides retail network management, pays pharmacies or pharmacists, negotiates rebates, manages pharmacy networks, and makes credentialing determinations.

Pharmacy benefit managers must be registered by the Insurance Commissioner (Commissioner). Applications for registration must include the identity of the PBM and the individuals and entities with a controlling interest in the PBM.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

A PBM may not provide services to a health carrier or an employee benefits program without a written agreement describing the rights and responsibilities of the parties. The PBM must file with the Commissioner every benefit management contract and contract amendment between the PBM and a provider, pharmacy, or pharmacy services administration organization. Enrollees in health plans issued on or after January 1, 2022, must be notified in writing of each PBM contracted with the carrier to provide any benefit management services in the administration of the plan.

### **Summary of Bill:**

For health plans, including health plans offered to public employees, issued or renewed on or after January 1, 2025, an enrollee's coinsurance or deductible payment for each covered prescription drug must be calculated at the point of sale based on a price that is reduced by the amount all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. The carrier or subcontractor must:

- pass through to each enrollee at the point of sale a good faith estimate of the enrollee's decrease in cost sharing; and
- provide the enrollee with an end-of-calendar year reconciliation for any cost-sharing reductions owed to the enrollee that were not passed on at the point of sale.

A pharmacy or pharmacist may not be subject to any liability, penalty, or disciplinary action from a carrier or the Insurance Commissioner (Commissioner) for failure to comply with these requirements if the pharmacy or pharmacist did not receive sufficient information to comply.

At the request of the Commissioner, a carrier must disclose information sufficient to show compliance with these requirements, including the wholesale acquisition cost and actual amounts of rebates. A carrier or its agents may not publish or otherwise reveal information regarding the amount of rebates or price protection rebate it receives on a product, manufacturer, or pharmacy-specific basis. This information is a trade secret, is not a public record, and may not be disclosed. A carrier must impose these confidentiality protections on any third parties or vendors that may receive or have access to rebate or price protection information.

Pharmacy benefit managers (PBMs) are prohibited from deriving income from pharmacy benefit management services provided to a carrier except from a pharmacy benefit management fee (fee). The fee and any other forms of revenue must be set in the agreement between the carrier and PBM. The fee charged by or paid to a PBM may not be directly or indirectly based or contingent upon:

- the acquisition cost or any other price metric of a drug;
- the amount of savings, rebates, or other fees charged, collected by, or generated based on the activity of the PBM; or
- the amount of premiums, deductibles, or other cost sharing or fees charged or collected by the PBM from patients.

Annually by December 31, each PBM must certify to the Commissioner that it has complied with these requirements. This certification must be signed by the PBM's chief executive officer or chief financial officer.

The Commissioner may take appropriate action against a carrier and its subcontractor and pharmacy benefit managers (PBMs) to enforce the requirements of the chapters regulating health carriers, health plans and other benefits offered to public employees, and health care benefit managers by imposing a civil penalty of \$1,000 per violation. The Commissioner is authorized to adopt rules to implement and administer these requirements as applied to health carriers and health plans offered to public employees.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2023.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.