



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 11-0487
Prime Sponsor(s): Rep. Duran
 Sen. Aguilar

Date: February 8, 2011
Bill Status: House Health and Environment
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING THE OFF-LABEL USE OF PRESCRIPTION DRUGS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Transfers or Diversions Diversion from the General Fund to the Division of Insurance Cash Fund*	(\$3,147)	
State Expenditures Cash Funds Division of Insurance Cash Fund	\$2,488	
FTE Position Change		
Effective Date: July 1, 2011.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: None.		

**Diversion is higher than expenditures to account for Expenditures not Included shown in the fiscal note.*

Summary of Legislation

Current law requires prescription drug coverage for the off-label use of prescription drugs for the treatment of cancer. Under this bill, a health benefit plan that provides prescription drug coverage is not permitted to limit or exclude coverage for the off-label use of prescription drugs for the treatment of life-threatening diseases and conditions, and for the treatment of chronic and seriously debilitating conditions. Drugs must be approved by the United States Food and Drug Administration (FDA) and certain conditions met. The drug must be:

- medically necessary to treat the condition;
- listed on the health benefit plan formulary;
- recognized for the treatment of the condition by the American Hospital Formulary Service's drug information; and
- recognized as generic drug type or an A or B recommendation of the U.S. Preventive Services Task Force.

Background

A drug label is not actually a label but rather an FDA approved report of specific information about the drug. This includes dosing and treatment instructions for the medical conditions for which the drug is approved. If a drug is used in a different way or for a different medical condition, this is described as an "off-label" use.

State Transfers or Diversions

This bill diverts \$3,147 from the General Fund in FY 2011-12 to the Division of Insurance Cash Fund to cover the expenditures incurred (Table 1 and Table 2) by the Division of Insurance. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

Division of Insurance, Department of Regulatory Agencies. An increase in expenditures of \$2,488 is expected for FY 2011-12 from the Division of Insurance Cash Fund as shown in Table 1. Insurance companies make annual filings to the division in January. Because this bill is effective July 1, 2011, insurance companies would be required to make special filings to update their prescription drug policies and to file new rates if necessary. The division would be required to review the filings. The fiscal impact funds the additional staff time required to conduct the extra reviews.

Table 1. Expenditures Under HB11-1143		
Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$2,488	
FTE	0.0	
TOTAL	\$2,488	

Health Care Policy and Financing. The bill will have no fiscal impact to the Medicaid program as it is not governed by Colorado insurance laws. The Children's Basic Health Plan can be affected by changes in insurance law, but this bill is expected to have a minimal impact on plan expenditures.

State Employee Health Plans, Department of Personnel and Administration. If the bill results in the use of drugs that cost about the same than those currently being prescribed, then the bill will have no fiscal impact. If the bill results in more expensive drugs being used, then the following could occur. In the short term, state expenditures will not change, although the bill may increase premiums paid by state employees for health insurance. Over the long term, state expenditures could change, but only if other employers change the amount they contribute for employee health insurance coverage.

The state currently contributes 90 percent of what other employers in the market contribute for employee health insurance coverage, so state expenditures tend to increase with employer contributions elsewhere in the market. The costs of this bill will depend on how it affects health insurance premiums throughout the market and how much of any increase is paid by employers.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB11-1143*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$279	
Supplemental Employee Retirement Payments	113	
Indirect Costs	267	
TOTAL	\$659	

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

As noted above, if the bill results in the use of drugs that cost about the same than those currently being prescribed, then the bill will have no fiscal impact. If the bill results in more expensive drugs being used, then local governments could see an increase in the amount of premiums they pay for employee health insurance.

State Appropriations

For FY 2011-12, the Division of Insurance in the Department of Regulatory Agencies requires an appropriation of \$2,488 from the Division of Insurance Cash Fund.

Departments Contacted

Personnel and Administration
Health Care Policy and Financing

Public Health and Environment
Regulatory Agencies