

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0365
Prime Sponsor(s): Sen. Crowder
 Rep. Primavera

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Bill Status: Senate Health & Human Services
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BILL TOPIC: PATIENT CHOOSE PHARMACY TO FILL PRESCRIPTIONS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	\$0	
State Diversions		
General Fund	(151,224)	
Cash Funds	151,224	
State Expenditures	\$151,224	
Cash Funds	141,361	Potential increase.
Centrally Appropriated Costs**	9,863	
FTE Position Change	0.5 FTE	
Appropriation Required: \$141,361 - Department of Regulatory Agencies (FY 2015-16)		

* This summary shows changes from current law under the bill for each fiscal year. Transfers and diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

Under current law, an insurance carrier or pharmacy benefit manager (PBM) may require a person to fill a prescription for a prescription drug through either a mail-order pharmacy or another pharmacy designed by the insurance carrier or PBM. The bill allows an individual covered by a health insurance plan to fill a prescription for a specialty drug or biological product at a network pharmacy of his or her choice if proper notice is filed with the insurance carrier or the PBM. The bill creates a process for local pharmacies to attest that they are able to fill the prescription in compliance with state and federal law and other requirements, and accepts the payment terms for specialty drugs and biological products provided by the health plan for existing network pharmacies.

The bill imposes other requirements on PBMs and insurance carriers in covering specialty drugs and biological products dispensed by local pharmacies, including:

- requiring that claims for these products be paid in a timely manner as for other prescriptions;
- prohibiting different payment terms when filled by a local pharmacy compared with a mail-order pharmacy or other designated pharmacy; and
- prohibiting incentives for a covered individual to fill a prescription through a mail-order pharmacy or other designated pharmacy.

Any violation of the bill constitutes an unfair or deceptive act or practice for the business of insurance.

State Revenue

While the bill does not affect net revenue to the state, it does result in a one-time diversion of General Fund, as discussed below.

State Diversions. This bill diverts **\$151,224 from the General Fund in FY 2015-16** to the Division of Insurance Cash Fund. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies (DORA), Division of Insurance (DOI), which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill results in a one-time cost of **\$151,224** in FY 2015-16, paid from the Division of Insurance Cash Fund. The bill also may impact all state agencies by affecting insurance premiums for certain state employee health plans. These costs and impacts are discussed below.

Assumptions. The fiscal note assumes the bill takes effect on August 5, 2015, and that it applies to any health insurance plan with prescription drug coverage issued or renewed after this date.

Division of Insurance costs. By modifying payment and coverage requirements for prescription drug coverage, the bill increases costs in the DOI for plan, rate, and actuarial review of health insurance plans outside of the usual review cycle. This is a one-time cost of \$151,224. When the bill takes effect, insurance companies will be required to modify and resubmit their previously filed health plans for 2016. This out-of-cycle review will require \$29,718 and 0.5 FTE for the DOI to review the plans and work with insurance carriers resubmitting plans. In addition, to ensure that the requirements of the bill are met, 300 hours of both actuarial and rate consultant time is required. At a rate of \$176.72 and 186.00 per hour, respectively, these consultants will cost a total of \$108,816. These costs, as well as other standard operating and capital expenditure costs, are shown in Table 1.

Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$29,718	
FTE	0.5 FTE	
Actuarial and Rate Consultants	108,816	
Operating Expenses and Capital Outlay Costs	2,827	
Centrally Appropriated Costs*	9,863	
TOTAL	\$151,224	

* Centrally appropriated costs are not included in the bill's appropriation.

Complaints and investigations. Violations of the provision of the bill are an unfair trade practice. The DOI may have additional workload to receive and investigate complaints, hold hearings, and take disciplinary actions against any health insurance carriers or PBMs committing such an act. The fiscal note assumes a high level of compliance by insurance carriers and that any complaint and investigative workload can be accomplished by the DOI within existing appropriations.

State employee insurance costs. To the extent using local pharmacies increases the drug costs paid by health insurance carriers compared with using mail-order and other designated pharmacies, premium costs could increase for the state employee health insurance plans. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this bill is not expected to affect state employee premiums until FY 2016-17. Because insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any increase caused by the bill will be addressed through the total compensation analysis included in the annual budget process.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB 15-123*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,023	
Supplemental Employee Retirement Payments	2,303	
Indirect Costs	3,537	
TOTAL	\$9,863	

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

Local Government Impact

Similar to the state employee insurance costs above, local governments that provide health insurance to their employees may experience an increase in premiums for any plans issued and renewed after the effective date of the bill.

Effective Date

The bill takes effect on August 5, 2015, assuming the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2015-16, the bill requires an appropriation of \$141,361 to DORA from the Division of Insurance Cash Fund.

State and Local Government Contacts

Regulatory Agencies
Health Care Policy and Financing
Corrections

Personnel and Administration
Human Services
Law