

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2109H.011
 Bill No.: HB 840
 Subject: Drugs and Controlled Substances; Pharmacy; Insurance - Health
 Type: Original
 Date: February 10, 2025

Bill Summary: This proposal creates provisions relating to payments for prescription drugs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue Fund*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Officials from the Missouri Consolidated Health Care Plan (MCHCP) state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increase in cost of over \$250,000. Oversight has reflected a \$0 or Unknown cost to various state and local funds that pay for health insurance.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
State Road Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Conservation Commission Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Local Government*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Officials from the Missouri Consolidated Health Care Plan (MCHCP) state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increase in cost of over \$250,000. Oversight has reflected a \$0 or Unknown cost to various state and local funds that pay for health insurance.

FISCAL ANALYSIS

§§338.015 - 376.448 – Payments for Prescription Drugs

Officials from the **Missouri Consolidated Health Care Plan (MCHCP)** state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increased cost of greater than \$250,000.

Oversight will range the fiscal impact to MCHCP as \$0 (the language would not preclude MCHCP from separately contracting with a specialty pharmacy for supply and payment of specialty drugs) to a negative Unknown (retail pharmacies are allowed to supply and bill for specialty drugs) to the General Revenue Fund, Other State Funds, Federal Funds.

Officials from the **Missouri Department of Transportation (MoDOT)** assume the proposal may increase costs for PBMs, which will likely pass on costs to the MoDOT-MSHP medical plan. This would have an unknown negative impact to the State Road Fund.

Officials from the **Missouri Department of Conservation** assume the proposal will have no fiscal impact on their organization.

Officials from **Kansas City** assume the proposed legislation has a negative fiscal impact of an indeterminate amount.

Oversight notes although the Missouri Department of Conservation stated no impacted as a result of this proposal, Oversight assumes this provision could have a fiscal impact MoDOT as well as other government health plans. Since it is unknown if this legislation will increase costs or not, Oversight will reflect a \$0 to Unknown fiscal impact to the State Road Fund, the Conservation Commission Fund and local political subdivisions.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Commerce and Insurance** and the **Department of Social Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Department of Public Safety - Missouri Highway Patrol** defer to the MoDOT/MHP Health Care Board for response relating to the fiscal impact of this proposal on their organization.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE FUND			
<u>Cost – MCHCP (§§338.015 - 376.448)</u> Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
<u>Cost – MCHCP (§§338.015 - 376.448)</u> Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
STATE ROAD FUND (0320)			
<u>Cost – MoDOT (§§338.015 - 376.448)</u> Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE STATE ROAD FUND (0320)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

CONSERVATION COMMISSION FUND (0609)			
Cost – MoDOT (§§338.015 - 376.448) Specialty Pharmacy for Specialty Drugs	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND (0609)	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
FEDERAL FUNDS			
Cost – MCHCP (§§338.015 - 376.448) Specialty Pharmacy for Specialty Drugs	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
*LOCAL POLITICAL SUBDIVISIONS			
Cost – (§§338.015 - 376.448) Specialty Pharmacy for Specialty Drugs	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

*Officials from the Missouri Consolidated Health Care Plan (MCHCP) state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increase in cost of over \$250,000. Oversight has reflected a \$0 or Unknown cost to various state and local funds that pay for health insurance.

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The bill specifies that certain provisions of law pertaining to pharmacists and pharmacies must not be construed to prohibit patients' ability to obtain prescription services from any licensed pharmacist or pharmacy, and repeals language specifying that the provisions do not remove patients' ability to waive their freedom of choice under a contract with regard to payment or coverage of prescription expenses.

Additionally, no pharmacy benefits manager (PBM) can prohibit, penalize, or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy.

This bill prohibits PBMs from requiring a covered person to make a payment for a prescription drug in an amount that exceeds the lesser of either the copay, the amount that would be paid if cash were used, or the amount equal to the difference of the final reimbursement amount paid to the pharmacy minus any rebate paid as well as any amount paid or owed by the health benefit plan. The bill extends to pharmacies or pharmacists the rights to provide any information, including pharmacy claims data, relating to a health benefit plan sponsor to such sponsor. It also prohibits PBMs from reducing the amount of a claim at the time of its adjudication or after it has been adjudicated, and prohibits PBMs from charging fees related to the adjudication of a claim. Additionally, this bill repeals a provision of law specifying that certain PBM regulations will not apply with regard to Medicare Part D, or other health plans regulated partly or wholly under federal law.

It also requires PBMs entering into a contract to provide standardized definitions for the terms "generic" and "rebate" applicable to PBMs and health carriers, and specifies that a PBM must owe a fiduciary duty to the state or any health carrier, health benefit plan, or political subdivision with which it contracts.

The bill adds that PBMs have a duty to disclose to a health benefit plan sponsor any material facts and actions taken by the PBM relating to the administration of benefits on behalf of the sponsor that may increase costs to the sponsor or its covered persons or that present a conflict of interest between the interests of the sponsor and the interests of the PBM. Any entity that enters into a contract to sell, provide, pay, or reimburse a pharmacy for prescription drugs on behalf of itself or another entity is prohibited from prohibiting a health benefit plan sponsor and a participating pharmacy from discussing any health benefit plan information. This bill makes it unlawful for any PBM or any person acting on its behalf to charge a health benefit plan or payer a different amount for a drug's ingredient cost or dispensing fee than the amount reimbursed to the pharmacy by a PBM for the drug's ingredient cost or dispensing fee if the PBM retains any amount of any such difference.

The bill repeals a portion of a definition to specify that certain provisions relating to the maximum allowable cost of a prescription drug are applicable to all pharmacies, rather than only to contracted pharmacies. If the reimbursement for a drug to a contracted pharmacy is below the

pharmacy's cost to purchase the drug, the pharmacy may decline to dispense the prescription, and a PBM cannot prohibit a pharmacy from doing so or retaliate after it has done so.

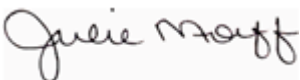
This bill prohibits PBMs from: (1) Paying or reimbursing a pharmacy in this state an amount that is less than the amount that a PBM reimburses to a PBM affiliate, as that term is defined in the bill, for providing the same costs and pharmacist services; (2) Paying or reimbursing a pharmacy in the state for the ingredient drug product component of pharmacist services less than the national or, as specified, the wholesale acquisition cost; (3) Making or permitting any reduction of payment for pharmacist services by a PBM or health care payer to a pharmacy under a reconciliation process; and (4) Removing from any pharmacy its legal right to civil recourse.

The bill provides that when calculating an enrollee's overall contribution to an out-of-pocket max or any cost-sharing requirement under a health benefit plan, a health carrier or pharmacy benefits manager must include any amounts paid by the enrollee or paid on behalf of the enrollee only for medication where a generic substitute is not available. PBMs and health carriers are prohibited from varying an enrollee's out-of-pocket maximum, or any cost-sharing requirement, that is based on or designed to take into account the availability of any cost-sharing assistance program for any medication where a generic substitute is not available.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Administrative Hearing Commission
Department of Commerce and Insurance
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Kansas City
Missouri Consolidated Health Care Plan



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