

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5331H.011
 Bill No.: HB 1850
 Subject: Pharmacy; Drugs and Controlled Substances
 Type: Original
 Date: February 11, 2026

Bill Summary: This proposal modifies provisions relating to pharmacies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	Could exceed (\$118,364)	Could exceed (\$126,052)	Could exceed (\$128,246)
Total Estimated Net Effect on General Revenue	Could exceed (\$118,364)	Could exceed (\$126,052)	Could exceed (\$128,246)

*Estimated costs are for 1 FTE for DHSS to implement a critical access care pharmacy program.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Insurance Dedicated Fund (1566)*	(\$653,472 to \$903,472)	(\$719,152 to \$969,152)	(\$727,555 to \$977,555)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$653,472 to \$903,472)	(\$719,152 to \$969,152)	(\$727,555 to \$977,555)

*Estimated costs include contracted consultations with a pharmacist for the completion of market conduct investigations or examinations and 3 FTE for DCI.

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue	1 FTE	1 FTE	1 FTE
Insurance Dedicated Fund (1566)	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 FTE

- 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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§338.600, 376.387, and 376.394 – Pharmacy Benefit Managers

Officials from the **Department of Commerce and Insurance (DCI)** assume this proposal would amend the pharmacy practice act to address audits of pharmacy records by managed care companies, insurance companies, or pharmacy benefit managers.

The proposal also makes changes to insurance laws related to pharmacy benefit managers (PBMs). These changes include broadening the definition of a “covered person” and allowing the Department to audit information provided by a PBM. It outlines requirements for information that must be included in claims data submitted by a pharmacy for payment by a PBM. The proposal requires PBMs to provide the Department and plan sponsors with documentation of benefit designs that encourage or require enrollees to fill prescriptions at the PBM’s affiliates. It requires PBMs with affiliates to disclose specified information to the plan sponsor and to the Department. It specifies that PBMs owe a fiduciary duty to each plan sponsor. Finally, the proposal states that the Department may “audit” a PBM to ensure compliance.

This proposal does not include a new benefit mandate; however, it would impose additional regulatory requirements on the Department, which will likely require expertise that the Department currently lacks. Additionally, if implemented, this proposal may lead to increased consumer and provider complaints.

DCI will need to contract with firms with the necessary knowledge and expertise to determine compliance with the new provisions. In addition, DCI will need 1 FTE Examiner-in-charge and 2 FTE Insurance Examiners due to the number and complexity of investigations/examinations needed to ensure compliance. Contracted consultation with a pharmacist for the completion of market conduct investigations or examinations are assumed to be an annual cost of \$250,000 to \$500,000 using an assumed hourly rate of \$300-\$500.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimated cost as provided by the DCI to the Insurance Dedicated Fund (1566).

§376.394

Officials from the **Department of Health and Senior Services (DHSS)** assume section 376.394 of the proposed legislation requires the Department of Health and Senior Services (DHSS) to establish a critical access care pharmacy program to ensure sustainability of critical access pharmacies in Missouri. The fiscal impact of the proposed legislation ranges from \$118,320 and one additional FTE to an unknown fiscal impact, as the bill does not specify what support should be provided to ensure pharmacy sustainability and program eligibility requirements.

At minimum, the proposed legislation would require one additional FTE, (Public Health Program Specialist - \$67,294 annually as of 12/2025), within the Department of Health and Senior Services to establish and implement the program.

The additional costs include items for the position to carry out their required duties, such as workspace and equipment, and for travel required to carry out the assigned duties. The duties for this position include, but are not limited to, the following:

- Conduct research and analysis on Missouri pharmacies and existing critical access care pharmacy programs in other states.
- Develop designation criteria for identifying a pharmacy as a critical access care pharmacy.
- Create a strategic sustainability plan, identifying the needs of critical access care pharmacies.
- Write and promulgate program rules.
- Administer support to pharmacies identified as a critical access pharmacy depending on funding availability.

If the program would require awarding funds to eligible critical access care pharmacies to ensure sustainability, additional general revenue would be required; however, the amount is unknown at this time.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect the estimated cost as provided by the DHSS to General Revenue as Could exceed the amount provided.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Cost – DHSS (§376.394) p.3-4</u>	Could exceed	Could exceed	Could exceed
Personal Service	(\$56,078)	(\$68,640)	(\$70,013)
Fringe Benefits	(\$36,168)	(\$43,943)	(\$44,495)
Equipment and Expense	(\$26,118)	(\$13,469)	(\$13,738)
<u>Total Costs – DHSS</u>	<u>(\$118,364)</u>	<u>(\$126,052)</u>	<u>(\$128,246)</u>
FTE Change – DHSS	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	Could exceed <u>(\$118,364)</u>	Could exceed <u>(\$126,052)</u>	Could exceed <u>(\$128,246)</u>
Estimated Net FTE Change on General Revenue	1 FTE	1 FTE	1 FTE
INSURANCE DEDICATED FUND (1566)			
<u>Cost – DCI (§§338.600 - 376.394) p.3</u>			
Personal Service	(\$224,928)	(\$275,312)	(\$280,818)
Fringe Benefits	(\$131,306)	(\$159,738)	(\$161,953)
Equipment and Expense	(\$47,238)	(\$34,102)	(\$34,784)
<u>Total Costs – DCI</u>	<u>(\$403,472)</u>	<u>(\$469,152)</u>	<u>(\$477,555)</u>
FTE Change – DCI	3 FTE	3 FTE	3 FTE
<u>Cost – DCI (§§338.600 - 376.394) Contracted consultation p.3</u>	(\$250,000 to <u>\$500,000)</u>	(\$250,000 to <u>\$500,000)</u>	(\$250,000 to <u>\$500,000)</u>
ESTIMATED NET EFFECT ON THE INSURANCE DEDICATED FUND (1566)	(\$653,472 to <u>\$903,472)</u>	(\$719,152 to <u>\$969,152)</u>	(\$727,555 to <u>\$977,555)</u>
Estimated Net FTE Change on the Insurance Dedicated Fund (1566)	3 FTE	3 FTE	3 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill modifies provisions governing audits of pharmacies. Currently, a managed care company, insurance company, third party payor, or other entity representing those companies or groups conducts the audit.

This bill adds pharmacy benefits managers or their subcontractors or representatives to the list of entities. Currently, a pharmacy must be provided with one week's notice prior to conducting the initial on-site audit.

This bill changes that provision to 14 days, and requires specific prescriptions to be identified for audit.

The bill provides that any audit involving clinical judgment must be conducted by, or in consultation with, a pharmacist licensed by the Board of Pharmacy who must be made available to the audited pharmacy to discuss clinical rationale. Additionally, the bill allows for a pharmacy to have the right to submit amended claims within 30 days of the discovery of an error to correct clerical or record-keeping errors in lieu of recoupment if the prescription was appropriately dispensed.

This bill limits audits to 25 prescriptions that have been randomly selected, and an entity conducting audits is prohibited from initiating an audit of a pharmacy more than two times in a calendar year. Any prescription information request by an entity that could result in recoupment counts as an audit. A recoupment is not to be based on:

- (1) Documentation requirements that are in addition to or exceeding requirements for maintaining documentation prescribed by the Board of Pharmacy; or
- (2) A requirement that a pharmacy or pharmacist perform a professional duty in addition to or exceeding professional duties prescribed by the Board of Pharmacy. Recoupment is only to occur following the correction of a claim and must be limited to amounts adjudicated by the pharmacy benefits manager.

Additionally, except for Medicare claims, eligibility approval for a drug, prescriber, or patient must not be reversed unless the pharmacy or pharmacist obtained the adjudication by fraud or misrepresentation. Any entity conducting an audit is not to be compensated, nor shall any of its employees be compensated, based on amounts recouped. Moreover, entities are prohibited from charging a fee for conducting an on-site or desk audit unless there is a finding of fraud.

The bill specifies that the period covered by the audit must not exceed a two-year period that begins on the date a claim being audited was submitted for payment, unless there has been a previous finding of fraud or as otherwise provided by state or federal law. Current law requires the delivery of the preliminary audit report to the pharmacy within 120 days of the conclusion of the audit, with reasonable extensions.

This bill provides that if an audit report is not delivered to the pharmacy within that time frame, the audit must be deemed free of discrepancies, and no recoupment shall be permitted.

The bill prohibits the limitation of days' supply for unit-of-use items beyond manufacturer recommendations and establishes provisions for situations when the only commercially available package size exceeds an entity's maximum days' supply.

This bill establishes provisions for any entity conducting a wholesale invoice audit to comply with, including what will be accepted as evidence and what may or may not form the basis for recoupment.

The bill requires the Department of Health and Senior Services to establish a critical access care pharmacy program to ensure the sustainability of critical access care pharmacies throughout the state.

This bill requires pharmacy benefits managers to provide plan sponsors with the sponsor's pharmacy claims data as reasonably requested by the plan sponsor. It additionally requires pharmacy benefits managers to provide to each plan sponsor and the Department of Commerce and Insurance with documentation of any benefit design that encourages or requires enrollees to fill prescriptions at the pharmacy benefits manager's affiliates.

The bill requires pharmacy benefits managers to have a fiduciary duty to each plan sponsor, and all required disclosures must be provided to the plan sponsor in a universally accessible format.

If a pharmacy benefits manager has an affiliate, the pharmacy benefits manager is required to disclose to the plan sponsor and the Department of Commerce and Insurance:

- (1) The amount charged per dosage unit to the affiliate; and
- (2) The median amount charged per dosage unit at in-network pharmacies that are not affiliates. The Department of Commerce and Insurance may audit a pharmacy benefits manager to ensure compliance with the provisions of this bill.

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

Department of Commerce and Insurance
Department of Health and Senior Services



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Jessica Harris
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February 11, 2026