OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

S.B. 160
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 160's Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Liston and Johnson

Local Impact Statement Procedure Required: No

Ruhaiza Ridzwan, Senior Economist

Highlights

- The bill may minimally increase administrative costs for the Department of Insurance to ensure health plan issuers comply with the bill's provisions. If there is any increase in such costs, it would be paid from the Department of Insurance Operating Fund (Fund 5540). Under the bill, the Superintendent of Insurance may also impose penalties for any violations related to the bill. Thus, any penalties collected, which are also deposited into Fund 5540, would offset such costs.
- The bill's prohibitions may increase costs to the state for its employee health benefit plans. The state's costs to provide health benefits to employees and their dependents are paid from the Health Benefit Fund (Fund 8080).
- The bill's prohibitions are likely to increase costs to counties, municipalities, townships, and school districts statewide for providing health benefits to employees and their dependents. However, LBO staff could not determine the magnitude of the fiscal impact due to a lack of information on the number of local government employers that will be affected by the prohibitions.

Detailed Analysis

The bill prohibits a health plan issuer from taking any of the following actions associated with prescription drugs during a plan year: (1) increase a covered person's burden of cost-sharing with respect to a drug, (2) move a drug to a more restrictive tier of a health benefit plan's formulary, (3) remove a drug from a health benefit plan's formulary unless (a) the U.S. Food and Drug Administration (FDA) issued a statement about the drug calling into question the clinical safety of the drug, (b) the drug manufacturer notified the FDA of a permanent discontinuance or interruption of the manufacture of the drug, or (c) the drug manufacturer has removed the drug from sale in the United States, or (4) limit or reduce coverage of a drug with respect to a covered person in any other way, including subjecting it to a prior authorization requirement. The bill also specifies a list of actions that it does not prevent from occurring. In addition, the bill specifies that if at any point during a plan year, the wholesale acquisition cost (WAC) for a drug increases by more than 5% plus the rate of inflation,[1] as compared to the average WAC for the previous plan year, the bill's exemption does not apply to that drug for the remainder of the plan year.

The bill specifies that a violation of its provisions is considered an unfair and deceptive practice in the business of insurance for the purposes of existing law in R.C. 3901.21. The bill also includes a provision that exempts its provisions from a mandated health benefits requirement under existing law.[2]

The bill's requirements apply to health benefit plans under R.C. 3922.01, including a nonfederal government health plan, delivered, issued for delivery, modified, or renewed on or after the bill's effective date.

Fiscal effect

The bill may minimally increase the Department of Insurance's administrative costs to ensure health plan issuers comply with the bill's provisions. If there is any increase in such costs, it would be paid from the Department of Insurance Operating Fund (Fund 5540). Under the bill, the Superintendent of Insurance may also impose penalties for any violations related to the bill. Any penalties would be also deposited into Fund 5540. Thus, any increase in the Department's administrative costs would be offset by any civil penalties that may arise from failure to comply with the bill's provisions.

The prohibitions related to prescription drug coverage during a plan year could restrict health plan issuers' ability to control any increase in costs of prescription coverage during a plan year. Thus, the prohibitions may increase costs to the state employee health benefit plans. The state's costs to provide health benefits to employees and their dependents are paid from the Health Benefit Fund (Fund 8080). Fund 8080 receives funding through state employee payroll deductions and state agency contributions toward their employees' health benefits, which are sourced from the GRF and various other state funds. In addition, the bill is likely to increase costs to counties, municipalities, townships, and school districts statewide for providing health benefits to employees and their dependents. However, LBO staff could not determine the magnitude of the fiscal impact due to a lack of information on the number of local government employers that will be affected by the bill's provisions.

FNSB0160IN-136/lb

[1] Rate of inflation means the percentage increase or decrease in the Consumer Price Index (CPI) over a one-year period, based on the most recent CPI-For All Urban Consumers, Midwest region, all items, as determined by the Bureau of Labor Statistics (BLS) of the United States Department of Labor.

[2] Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state.