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H.B. 291
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Liston and Carruthers

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill's prohibitions are likely to 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).
- 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 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 to do any of the following during a health benefit 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 the plan's formulary; (3) remove a drug from the plan's formulary unless one of the following occurred: (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 as required by federal law, 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. Despite these prohibitions, the bill explicitly permits a health plan issuer to add a drug to its formulary, remove a drug from its formulary if the drug manufacturer has removed the drug from

sale in the United States,¹ or require a covered person to use a generically equivalent drug or interchangeable biological product if one is available.

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 applies to all 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 for regulating health insurers. 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 requirements. Any penalties would be deposited into the Department of Insurance Operating Fund (Fund 5540) and any increase in administrative costs would also be paid from Fund 5540.

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 are likely to 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 of providing health benefits to employees and their dependents. However, LBO staff could not determine the magnitude of the fiscal impact due to lack of information on the number of local government employers that will be affected by the bill's provisions.

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¹ Also, the bill specifies that it does not prevent: (1) a health care provider from prescribing another drug covered by the health benefit plan that the provider considers medically appropriate, (2) a pharmacist from substituting for the prescribed drug a generically equivalent drug or interchangeable biological product in accordance with section 4729.38 of the Revised Code, or (3) a pharmacist from substituting for a prescribed epinephrine autoinjector another such autoinjector pursuant to section 4729.382 of the Revised Code.

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.