Department of Finance and Administration

Legislative Impact Statement

Bill: SB916
Bill Subtitle: TO ENSURE THAT VULNERABLE CITIZENS RECEIVE MEDICATIONS FOR LIFE-ALTERING ILLNESS; AND TO CREATE THE CONTINUITY OF CARE ACT OF 2013.

Basic Change :

Senator Woods
Eliminates a health plans ability to make modifications to a pharmacy plan during the plan year. All changes must take place at renewal (January for state and school plan).

Revenue Impact :

Difficult to determine true net cost impact at this time. The bill would provide for some cost savings because of the delay of adding new drugs to the plan but could result in simply shifting costs from pharmacy to the medical plan. Additional costs could also result from delaying generic medications and requiring coverage of the brand version for a longer period.

Taxpayer Impact :

None

Procedural Changes :

Currently, the Board's Drug Utilization and Evaluation Committee recommends pharmacy changes throughout the plan year. Many of these changes are new drugs to the market. Other changes could be the introduction of a generic version of a name brand drug, typically sold at a lesser cost than the original drug. Given the language in SB916, adding a new medication or even a generic version of a currently covered drug could only be done at the beginning of the plan year. Delaying the coverage of a cancer medication, for example, would certainly save the cost of the drug but may lead to higher medical costs due to physicians ordering other courses of treatment.

Additionally, the DUEC recommends that some medications be removed from the formulary for clinical reasons such as effectiveness or even patient safety. Unless the FDA ordered a full recall of the medication, SB916 would prevent the Board from taking any action on these medications until the new plan year started.

Actuary Analysis

March 15, 2013

Mr. Jason Lee, Executive Director
State of Arkansas
Employee Benefits Division
501 Woodlane, Suite 500
Little Rock, AR 72201

Re: Senate Bill 916

Dear Jason,

We are providing comments on Senate Bill 916 impact on the Arkansas State Employees (ASE) and Public School Employees (PSE) health benefit coverage based on understanding of the bill. Our understanding is that this bill would prevent the ASE & PSE plans from modifying prescription drug coverage, including changes to the formulary, except at renewal (i.e., January 1) and with proper notice (i.e., by November 2). Therefore, any such decisions would have to be made more than 60 days in advance of the plan year.

From a cost perspective there are offsetting effects that make it difficult to determine whether it would be a net cost or savings to the plan without significant additional analysis. Some reasons costs could increase are because the plan would have to wait until the next plan year to implement any of the following:

i. Incentives to use a drug that has a price decrease (such as when a low cost generic drug becomes available). For example, ASE & PSE could not implement any new reference pricing programs between renewal dates.
ii. Incentives to select an alternative to a drug that has an unexpected price increase (this is similar to i. except that it applies to two different brand drugs that may be equally effective, so the lower cost is on the lower copay tier and the higher cost is on a higher copay tier; these could not be switched).
iii. Coverage for a new drug that is more cost effective than existing covered services (for example, a drug that provides an alternative to surgery.

iv. Coverage for a vaccine that the USPSTF newly recommends as a preventive service. ASE & PSE would be required to cover it under the Affordable Care Act but could only cover it through the medical benefit, which is usually more expensive than through the pharmacy benefit.

These increases would be offset to some degree by delaying until the next plan year coverage for new drugs that are typically more expensive than existing covered drugs or services. We note that the plans do have a process for reviewing newly released drugs through the Drug Utilization and Evaluation Committee prior to adding them to the formulary.

We also have some concerns from a quality of care and patient safety perspective because, as we understand the bill, the plan would not be able to make the following changes until renewal:

- Covering a newly released drug that is more effective than current treatment (for example, a new cancer drug),
- Providing coverage for an alternative (currently non-formulary) drug when there is a shortage of a formulary drug,
- Removing a formulary drug for which new safety warnings or alternative best practices are issued.

There could be additional quality of care and patient safety issues. I am not a clinician and my firm does not provide clinical advice.

An additional consequence is the communication challenge to prevent confusion by the participant and the pharmacists. Since formulary changes are not allowed, the plan would not cover a newly released generic drug until the plan renewal date. The pharmacist would miss out on the plan's higher generic dispensing fees. Participants would not be able to take advantage of lower generic copays and would be confused that the lower cost generic is not covered for some medications, but required for others. As an example, take a scenario where the plan issues a notice by November 1st that effective January 1 a participant must get the generic drug, released earlier that year, or pay the additional cost. A participant who goes to the pharmacy in December would be confused when told the plan does not cover the generic because it was released earlier that year, it was not on the formulary. They would be more confused when they went back in January and were now told the plan only covered the generic drug.

To the best of my knowledge, our comments have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render any actuarial opinions contained herein. I am not an attorney and our firm does not provide any legal services or advice. Our comments are based on our understanding of the bill as benefits consultants and actuaries, not on a formal legal opinion. Should a legal opinion differ materially from our understanding, our comments may change.

Cheiron's analysis was prepared exclusively for the Employee Benefits Division of the State of Arkansas for the specific purpose of providing comments on Arkansas Senate Bill 916 and its potential impact on the ASE and PSE health plans. Our analysis is not intended to benefit any third party, and Cheiron assumes no duty or liability to any such party.

Sincerely,
John Colberg, FSA, EA, MAAA
Principal Consulting Actuary