LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1502

STATE OF NEW JERSEY
222nd LEGISLATURE

DATED: OCTOBER 27, 2026

SUMMARY

Synopsis: Creates "Patient and Provider Protection Act.

Type of Impact: Annual State and local government cost impact; annual State revenue impact.

Agencies Affected: Division of Pension and Benefits in the Department of the Treasury, Department of Human Services, Department of Banking and Insurance, local governments, school districts.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Cost Impact	Indeterminate
Annual State Revenue Impact	Indeterminate
Annual Local Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill would have an indeterminate impact on State expenditures related to employee health insurance and for expenditures related to NJ FamilyCare, the State's Medicaid program. The bill would also have an indeterminate impact on local government expenditures, including school districts, related to the purchase of employee health insurance.

- The bill imposes new requirements on pharmacy benefits managers that would impact the cost of providing prescription drug coverage through health plans covered by the provisions of the bill.

- Some of the bill's provisions would potentially increase the cost of these health plans while others would potentially lower costs. The OLS lacks the informational basis to quantify the magnitude of these impacts.

- The bill would also have an indeterminate impact on State revenues, with some provisions increasing revenues annually while others could reduce annual revenues.

- The State Health Benefits Program, the School Employees' Health Benefits Program, and NJ FamilyCare, the State's Medicaid program, are all covered by certain provisions of the bill.

BILL DESCRIPTION

The Patient and Provider Protection Act establishes certain requirements for pharmacy benefits managers relating to contractual agreements with carriers, manufacturers, and pharmacies. Under the bill, pharmacy benefits managers have a fiduciary responsibility to act in the best interests of the carrier with which they contract, and the bill's definition of health benefits plan for this purpose includes the State Health Benefits Program, School Employees' Health Benefits Program, and the State Medicaid program. Pharmacy benefits managers are prohibited from engaging in any marketing activity that uses inaccurate or misleading information to convince or attempt to convince covered persons to use a contracted or network pharmacy. Furthermore, a pharmacy benefits manager may not enter into an agreement with a manufacturer or an intermediary, such as a rebate aggregator, that conditions any rebate on the exclusion of therapeutically equivalent generic drugs from coverage or on the inclusion of other unrelated drugs.

Under the bill, the Department of Banking and Insurance will determine the 10 highest priced prescription drugs relative to the National Average Drug Acquisition Cost and publish and maintain the list of those prescription drugs on its website. For any drug on the department's list that is prescribed for a person with coverage under the State Medicaid program, the bill requires the pharmacy benefits manager to reimburse pharmacies at the State fee-for-service National Average Drug Acquisition Cost benchmark plus the prevailing State-defined Medicaid professional dispensing fee.

The bill stipulates that a pharmacy benefits manager may not derive income from services provided to a carrier or health benefits plan, including the State Health Benefits Program, School Employees' Health Benefits Program, and the State Medicaid program, except through a pharmacy benefits manager fee. The pharmacy benefits management fee charged or paid to a pharmacy benefits manager from a carrier or health benefits plan must not be directly or indirectly based upon:

(1) the acquisition cost or any other price metric of a drug;

(2) the amount of savings, rebates, or other fees charged, realized, or collected by or generated based on the activity of the pharmacy benefits manager; or

(3) the amount of premiums, deductibles, or other cost sharing or fees charged, realized, or collected by the pharmacy benefits manager from patients or other persons on behalf of a patient.

The bill also prohibits pharmacy benefits managers from authorizing or engaging in spread pricing in contracts with a pharmacy, rebate aggregator, or health benefits plan, including contracts with the State Health Benefits Program and School Employees' Health Benefits Program, or for Medicaid recipients. Pharmacy benefits managers are also prohibited from engaging in differential payment pricing based on the ownership or affiliation of an intermediary, such as a drug manufacturer, rebate aggregator, or pharmacy.

Contracts with pharmacy benefits managers to administer pharmacy benefits for Medicaid recipients and for the State Health Benefits Program and School Employees' Health Benefits Program must require pass-through pricing, under which rebates and other compensation from

drug manufacturers are passed directly through to the State program, as well as transparency in drug costs, rebates, dispensing fees, and other compensation.

The bill further prohibits a pharmacy benefits manager from requiring a covered person to utilize an affiliate pharmacy unless the pharmacy benefits manager can show that the pharmacy delivers lower costs or higher quality services to covered persons.

The Department of Banking and Insurance is required to contract with an independent organization to conduct binding arbitration of certain drug pricing and reimbursement disputes and is authorized to assess fees on pharmacy benefits managers and pharmacy services administrative organizations to support the department's responsibilities under the bill.

Finally, a pharmacy and therapeutics committee shall ensure that no decision concerning the inclusion of a prescription drug in a formulary system, or in a particular tier of the formulary system, places a prescription drug with a higher cost in a more favorable position than a generic or biosimilar prescription drug with a lower cost.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill would have an indeterminate impact on State expenditures related to employee health insurance and for expenditures related to NJ FamilyCare, the State's Medicaid program. The bill would also have an indeterminate impact on local government expenditures, including school districts, related to the purchase of employee health insurance.

The bill imposes new requirements on pharmacy benefits managers that would impact the cost of providing prescription drug coverage through health plans covered by the provisions of the bill. Some of the bill's provisions would potentially increase the cost of these health plans while others would potentially lower costs. The OLS lacks the informational basis to quantify the magnitude of these impacts.

The bill will also have an indeterminate impact on annual State revenues. The bill requires the Department of Banking and Insurance to assess fees on pharmacy benefits managers and pharmacy services administrative organizations in connection with the department's administrative responsibilities under the bill, and it permits the department to establish fees for the new binding arbitration process. However, the OLS lacks the information necessary to estimate the amount of fee revenue that will be collected. Conversely, to the extent that certain provisions in the bill lower State Medicaid prescription drug expenditures, federal Medicaid reimbursements to the State would decrease correspondingly.

The OLS notes that the State Health Benefits Program, the School Employees' Health Benefits Program, and NJ FamilyCare, the State's Medicaid program, are covered by certain provisions of the bill.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).