Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 218 of the 129th G.A. **Date**: September 21, 2011

Status: As Passed by the Senate **Sponsor**: Rep. Hottinger

Local Impact Statement Procedure Required: No

Contents: To use the compendia adopted by the U.S. Department of Health and Human Services to determine whether an insurer may exclude coverage for off-label drug usage and to revise the external review process used by health plan issuers

State Fiscal Highlights

- The changes made to external review procedures are likely to increase the number of external reviews of health insurance claims; this provision is intended to comply with federal requirements. Any increase in the number of reviews has the potential to increase administrative costs for health insuring corporations (HICs) and public employee benefit plans, and for the Department of Insurance.
- Department of Insurance officials expect a minimal increase in administrative costs for the Department, which would be paid from the Department of Insurance Operating Fund (Fund 5540).
- Any increase in administrative costs for HICs and public employee benefit plans has the potential to increase the state's costs of providing health benefits to employees and their dependents. Any such increase is likely to be minimal, but LSC staff are not certain that that is the case.

Local Fiscal Highlights

- The changes made to external review procedures are likely to increase the number of external reviews of health insurance claims; this provision is intended to comply with federal requirements. Any increase in the number of reviews has the potential to increase administrative costs for HICs and public employee benefit plans.
- Any increase in administrative costs for HICs and public employee benefit plans has the potential to increase local governments' costs of providing health benefits to employees and their dependents. Any such increase is likely to be minimal, but LSC staff are not certain that that is the case.

Detailed Fiscal Analysis

The bill replaces the list of standard medical reference compendia for purposes of insurance coverage of off-label drug usage. The bill replaces the current statutory list of compendia with a reference to the standard medical reference compendia approved by the U.S. Department of Health and Human Services under federal law. Under current law, health insuring corporations (HICs) and group and individual policies of sickness and accident insurance that provide coverage for prescription drugs are required to provide coverage for any "off-label"[1] drug if it has been recognized as safe and effective for treatment as indicated in one or more of the standard medical reference compendia or in certain medical literature specified in current law.

The bill also makes changes related to utilization review and internal and external review procedures to comply with federal requirements. Among those changes is the removal of a $500 minimum threshold in current law, which restricts the number of health care claims eligible for current external review requirements.

Fiscal Effect

The bill's provisions related to the list of standard medical reference compendia do not apply to public employee benefit plans, so they would have no direct fiscal impact on the state self-insured health benefit plans or on local governments' self-insured health benefit plans. For local governments that provide health benefits to employees and their dependents through an HIC or a group sickness and accident insurance policy that includes prescription drug coverage, there is a potential for the bill to have an effect on prescription drugs covered by the plan, and therefore on costs of providing those benefits. If the new compendia expand the number of off-label drugs covered, it could increase costs for local governments. These provisions of the bill appear to be administrative in nature, rather than substantively expanding benefits, such that LSC staff believe that any potential fiscal effect on local governments would be negligible.

The provisions related to external review procedures may increase the number of health insurance claims eligible for external review. This may increase HICs' and public employee benefit plans' administrative costs. This in turn may increase the state's and local governments' costs to provide health benefits to employees and their dependents. Any such potential increase in costs may be minimal, in part because disputed claims with a value of less than $500 would likely often be judged not worth pursuing by the affected patients. But LSC staff are not certain of this, and currently do not know of a reliable basis for predicting that that is the case. Based on an annual independent external review report published by the Department of Insurance, *The Patient Protection*

[1] "Off-label" drug refers to any drug that has been approved by the U.S. Food and Drug Administration (USFDA) for the treatment of a specific indication, when it is prescribed for an unapproved treatment.

Act Report for the Year 2009, in that year the Department or Independent Review Organizations (IROs) reviewed five cases of denied health care services provided by public employee health benefit plan, or 3% of the total number of cases reviewed.

In addition, the changes may minimally increase the Department of Insurance's administrative costs associated with the review of health care denials. Any such costs would be paid out of the Department of Insurance Operating Fund (Fund 5540).

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