Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1224

Brief Description: Concerning prescription drug cost transparency.

Sponsors: Representatives Robinson, Macri, Ryu, Peterson, Frame, Tharinger, Bergquist, Gregerson, Jinkins, Ortiz-Self, Lovick, Doglio, Stanford, Appleton, Slatter and Wylie.

Brief Summary of Bill

- Requires issuers and drug manufacturers to report certain prescription drug pricing data to a data organization contracted by the Office of Financial Management (OFM).
- Requires the data organization to summarize the prescription drug pricing data and provide reports to the Legislature and the OFM.

Hearing Date: 2/6/19

Staff: Kim Weidenaar (786-7120).

Background:

Prescription Drug Purchasing Consortium.
The Health Care Authority (HCA) established a prescription drug purchasing consortium. State purchased health care programs must purchase prescription drugs through the consortium, and local governments, private entities, labor organizations, uninsured, and underinsured residents may voluntarily participate in the consortium. In 2006 Washington and Oregon formed the Northwest Prescription Drug Consortium (Northwest Consortium) to expand their purchasing power. The Northwest Consortium offers access to retail pharmacy discounts, pharmacy benefit management services, rebate management services, and a prescription discount card for uninsured residents.

All-Payer Health Care Claims Database.
The Office of Financial Management (OFM) established the all-payer claims database to support transparent public reporting of health care information. The database collects claims data from the Medicaid program, Public Employees' Benefits Board programs, all health carriers, third

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party administrators, and Department of Labor and Industries programs. Claim files submitted to the database include pharmacy claims.

State Agency Work on Prescription Drug Costs.
In 2016 the Department of Health convened a taskforce to evaluate factors contributing to out-of-pocket costs for patients, including prescription drug cost trends. The same year, the HCA and the OFM prepared a report on prescription drug costs and potential purchasing strategies at the request of legislators. The report describes increases in state agency spending on prescription drugs in recent years, current cost drivers, strategies to slow the rate of prescription drug spending, and policy options.

Summary of Bill:

The Office of Financial Management (OFM) must conduct a competitive procurement process to select a data organization to collect, verify, and summarize prescription drug pricing data provided by drug manufacturers and issuers.

Insurance Carrier Obligations.
By March 1 of each year, an issuer must provide the data organization with the following information for the previous calendar year:

- the 25 most frequently prescribed prescription drugs by health care providers in the issuer's network;
- the 25 costliest prescription drugs, and the issuer's total spending on each drug;
- the 25 prescription drugs with the largest year-over-year increase in spending, including the percentage increase; and
- a summary of the impact of prescription drug costs on health plan premiums.

Employer-sponsored self-funded health plans and Taft-Hartley Trust health plans may voluntarily provide this data.

Manufacturer Obligations.
Beginning October 1, 2019, covered manufacturer must provide the data organization the following information for covered drugs:

- a description of the factors considered when increasing the wholesale acquisition cost of a covered drug, including an explanation of how these factors explain the increase in cost;
- a history of cost increases for the past five years if the drug was manufactured by the company during that time;
- if the drug was acquired by the manufacturer within the previous five years, the manufacturer must provide:
    - the wholesale acquisition cost of the drug at the time of the acquisition and in the calendar year prior to acquisition; and
    - the company from which the drug was purchased, the purchase price, and the date it was acquired;
- the year the drug was introduced to the market and the wholesale price at introduction;
- the patent expiration date;
- if the drug is a multiple source drug, an innovator multiple source drug, a noninnovator multiple source drug, or a single source drug;

- an itemized cost for the production and sale of each drug, including costs related to advertising, research and development, and clinical trials and regulation; and
- the total financial assistance given through programs, rebates, and coupons.

A covered drug is defined as: a drug the manufacturer intends to introduce to the market at a wholesale acquisition cost of $10,000 or more for a course of treatment or a 30-day supply, whichever period is longer; or is currently on the market, is manufactured by a covered manufacturer, and has a wholesale acquisition cost of more than forty dollars for a course of treatment, and the manufacturer increases the wholesale acquisition cost at least sixteen percent, including the proposed increase and the cumulative increase that occurred two calendar years prior to the date of the proposed increase. A covered manufacturer means a person, corporation, or other entity engaged in the manufacture of prescription drugs sold in or into Washington.

A covered manufacturer must also notify the purchaser of a qualifying price increase in writing at least sixty days prior to the planned effective date of the increase or the introduction of a covered drug, beginning October 1, 2019. The notification must include:

- the date of the increase, the current wholesale acquisition cost of the prescription drug, and the dollar amount of the future increase in the wholesale acquisition cost of the prescription drug; and
- a statement regarding whether a change or improvement in the drug necessitates the price increase, and if so, the manufacturer shall describe the change or improvement.

If a Pharmacy Benefit Manager receives a notice of an increase in wholesale acquisition cost it must notify its large contracting public and private purchasers, those that provide coverage to more than 500 lives, of the increase.

Enforcement.
The OFM may assess a fine of up to $1,000 per day if an issuer or manufacturer fails to comply with these requirements. Fines collected must be deposited in the Medicaid Fraud Penalty Account. The OFM must report any fines levied against a health carrier to the Office of the Insurance Commissioner (OIC).

Data reporting.
The data organization must compile the data collected from issuers and manufacturers into a report to the OFM. The OFM must conduct an independent analysis of the data and produce a report for the public and the Legislature demonstrating the impact of prescription drug costs health care premiums. Beginning January 1, 2020, and each following January 1, the OFM must publish the report on its website. The OFM must also share the information provided by carriers with the OIC. Except for reporting purposes, the OFM and OIC must keep all information provided pursuant to these requirements confidential and the information is not subject to public disclosure. The OFM must also collect data from the all-payers claims database on prescription drug claims to include billed and paid charges. By November 1, 2020, the OFM must produce a report for the Legislature that includes charts demonstrating the variance in billed and paid charges among the carriers for the 25 drugs with higher than average variances in billed and paid charges based on data from the all-payers claims database.

The OFM may adopt rules necessary to implement these requirements.

A new chapter is created in Title 43 Revised Code of Washington.

Appropriation: None.

Fiscal Note: Requested on January 31, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.