

Fiscal Estimate Narratives

OCI 12/13/2017

LRB Number	17-4450/1	Introduction Number	SB-532	Estimate Type	Original
Description registration of pharmacy benefit managers, granting rule-making authority, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

This bill requires the Office of the Commissioner of Insurance (OCI) to regulate pharmacy benefit managers (PBMs). The bill prohibits a person, except an insurer already regulated by OCI, from performing any activities of a PBM in Wisconsin without first registering with OCI. According to the bill, a PBM must file an appropriate application with OCI and pay any registration fee set by the Wisconsin Commissioner of Insurance. A PBM registration is valid for one year. The Wisconsin Commissioner of Insurance may refuse to register a PBM if a previous registration was suspended or revoked.

This bill allows the Wisconsin Commissioner of Insurance, after a hearing, to suspend or revoke a registration of a PBM if the registered PBM, or an officer, director, or employee of a registered PBM does any of the actions specified in the bill.

The bill allows OCI to promulgate rules necessary to carry out the intent of PBM registration. The bill also allows the WI Commissioner of Insurance to use his or her authority to regulate insurers to similarly regulate PBMs, including the authority to require reports, conduct examinations, and issue orders.

The bill is definitive in its intent to require PBMs to register with OCI. However, the bill does not give OCI specific guidance concerning the registration of PBMs. Most of the requirements concerning the registration of PBMs will be left to OCI through the implementation of administrative rules. OCI estimates this rulemaking to be substantial, requiring significant staff time to develop and implement the rules. OCI does not find it feasible to meet the bill's effective date of implementation with a permanent rule of 7 months after publication.

Under the bill, a PBM failing to register would be subject to a \$500.00 forfeiture for each day of violation which is less than s. 601.64 (3) (c), Wis. Stat. , which allows OCI to impose a forfeiture not exceeding \$1,000.00 per violation which may create an inequitable playing field for similar violations.

To estimate the possible number of PBMs registering with the State of Wisconsin, OCI reached out to the State of Kansas. Kansas was picked because it registers PBMs and is the state most aligned with Wisconsin's insurance climate. Currently, the State of Kansas has 40 registered PBMs.

If the State of Wisconsin estimates registering 40 PBMs, OCI anticipates two additional FTE positions will be necessary in the Bureau of Market Regulation to implement this bill.

Insurance Examiner Journey \$73,000 (includes salary and fringe)
Operations Program Associate \$44,772 (includes salary and fringe)

OCI anticipates that additional staff time required for rulemaking would specifically include 400 hours for a senior staff attorney for the purpose of emergency and permanent rule making; 50 hours for a supervising attorney plus senior administration relating to the rulemaking process; 75 hours for a paralegal to assist in rulemaking; 200 hours of additional supervisor time in the Bureau of Financial Analysis and Examinations and the Bureau of Market Regulation for the development of the regulation criteria, registration, and form development during the rulemaking process. Once the bill is implemented, OCI estimates 200 hours of additional staff attorney time for hearing and enforcement actions.

Estimated expenditures summary (Includes salary and fringe benefits):

Senior Attorney \$24,625.44
Attorney \$12,312.72
Senior Administration \$3,640.08
Paralegal \$2,931.60

Bureau of Financial Analysis and Examination Supervisor \$12,388.10
Bureau of Market Regulation Supervisor \$9,772.00
Total Salary and Fringe Benefits \$65,669.94

Long-Range Fiscal Implications