

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0644S.02I
 Bill No.: SB 45
 Subject: Department of Commerce and Insurance; Contracts and Contractors; Insurance - Health; Pharmacy; Hospitals; Consumer Protection
 Type: Original
 Date: January 20, 2025

Bill Summary: This proposal enacts provisions relating to payments for prescription drugs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
General Revenue Fund*	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

*Officials from the Missouri Consolidated Health Care Plan (MCHCP) state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increase in cost of over \$250,000. Oversight has reflected a \$0 or Unknown cost to various state and local funds that pay for health insurance.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
State Road Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Conservation Commission Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on Other State Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2026	FY 2027	FY 2028
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL ANALYSIS

§§338.015 and 376.387 - 376.388 – Payments for Prescription Drugs

Officials from the **Missouri Consolidated Health Care Plan (MCHCP)** state to the extent the proposed language would not preclude MCHCP separately contracting with a specialty pharmacy for supply and payment of specialty drugs, the expected fiscal impact would be \$0. However, should the language allow retail pharmacies to supply and bill for specialty drugs, then MCHCP would likely have an unknown increased cost of greater than \$250,000.

Oversight will range the fiscal impact to MCHCP as \$0 (the language would not preclude MCHCP from separately contracting with a specialty pharmacy for supply and payment of specialty drugs) to a negative Unknown (retail pharmacies are allowed to supply and bill for specialty drugs) to the General Revenue Fund, Other State Funds, Federal Funds.

Officials from the **Missouri Department of Transportation (MoDOT)** assume the proposal may increase costs for PBMs, which will likely pass on costs to the MoDOT-MSHP medical plan. This would have an unknown negative impact to the State Road Fund.

Officials from the **Missouri Department of Conservation** assume the proposal will have no fiscal impact on their organization.

Oversight notes although the Missouri Department of Conservation stated no impacted as a result of this proposal, Oversight assumes this provision could have a fiscal impact MoDOT as well as other government health plans. Since it is unknown if this legislation will increase costs or not, Oversight will reflect a \$0 to Unknown fiscal impact to the State Road Fund, the Conservation Commission Fund and local political subdivisions.

Officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Commerce and Insurance**, the **Department of Social Services**, the **Oversight Division** and **Kansas City** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Department of Public Safety - Missouri Highway Patrol** defer to the MoDOT/MHP Health Care Board for response relating to the fiscal impact of this proposal on their organization.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities were requested to respond to this proposed legislation but did not. A general listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

FISCAL IMPACT – State Government	FY 2026 (10 Mo.)	FY 2027	FY 2028
GENERAL REVENUE FUND			
Cost – MCHCP (§§338.015-376.388) p.3 Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
OTHER STATE FUNDS			
Cost – MCHCP (§§338.015-376.388) p.3 Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
STATE ROAD FUND (0320)			
Cost – MoDOT (§§338.015-376.388) p.3 Elimination of channel management programs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE STATE ROAD FUND (0320)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
CONSERVATION COMMISSION FUND (0609)			
Cost – MoDOT (§§338.015-376.388) p.3 Elimination of channel management programs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO THE CONSERVATION COMMISSION FUND (0609)	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>

FEDERAL FUNDS			
Cost – MCHCP (§§338.015-376.388) Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT ON FEDERAL FUNDS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2026 (10 Mo.)	FY 2027	FY 2028
LOCAL POLITICAL SUBDIVISIONS			
Cost – (§§338.015-376.388) p.4 Specialty Pharmacy for Specialty Drugs	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act enacts provisions relating to payments for prescription drugs.

FREEDOM OF CHOICE FOR PHARMACY SERVICES (Sections 338.015)

The act specifies that certain provisions of law pertaining to pharmacists and pharmacies shall not be construed to prohibit patients' ability to obtain prescription services from any licensed pharmacist "or pharmacy", and repeals language specifying that the provisions do not remove patients' ability to waive their freedom of choice under a contract with regard to payment or coverage of prescription expenses. (Section 338.015.1). Under the act, no pharmacy benefits manager shall penalize or restrict a covered person from obtaining services from a contracted pharmacy, as such terms are defined by law. (Section 338.015.4).

PHARMACY BENEFITS MANAGERS (Section 376.387 and 376.388)

Additionally, the act modifies the applicable definition of "covered person" for purposes of certain statutes governing pharmacy benefits managers (PBMs) to apply only to individuals who receive prescription drug coverage through a PBM (Section 376.387.1(1)), specifies that a pharmacy or pharmacist may provide to a plan sponsor any information related to the sponsor's

plan that does not disclose information about a specific covered person's prescription use (Section 376.387.3(2)), repeals a provision of law allowing PBMs to hold pharmacists or pharmacies responsible for fees related to charges for administering a health benefit plan (Section 376.387.4), and repeals a provision of law specifying that certain PBM regulations shall not apply with regard to Medicare Part D or other health plans regulated under federal law. (Former section 376.387.5). The act provides standardized definitions for the terms "generic" and "rebate" applicable to PBMs and health carriers (Section 376.387.6-7), and specifies that PBMs shall owe a fiduciary duty to the entities with which it contracts. (Section 376.387.8). No entity contracting with pharmacies to sell, provide, pay, or reimburse pharmacies for prescription drugs shall prohibit a plan sponsor or a contracted pharmacy from discussing any health benefit plan information or costs. (Section 376.387.9). PBMs shall not charge a health benefit plan or payer different amounts for drugs' ingredient costs or dispensing fees than it reimburses the pharmacy if the PBM retains the difference. (Section 376.387.10).

The act repeals a portion of a definition to specify that certain provisions relating to the maximum allowable cost of a prescription drug are applicable to all pharmacies, rather than only to contracted pharmacies (Section 376.388.1(1)), and modifies the applicable definition of PBM to refer to any entity that administers or manages a pharmacy benefits plan or program, as defined in the act. (Section 376.388.1(5)). If the reimbursement for a drug to a contracted pharmacy is below the pharmacy's cost to purchase and dispense the drug, the pharmacy may decline to dispense the prescription. (Section 376.388.5(2)). No PBM shall reimburse a pharmacist or pharmacy in the state an amount less than the amount that the PBM reimburses a PBM affiliate, as defined in the act, for providing the same pharmacist services. (Section 376.388.5(3)).

COST-SHARING UNDER HEALTH BENEFIT PLANS (Section 376.448)

This act provides that when calculating an enrollee's overall contribution to an out-of-pocket max or any cost-sharing requirement under a health benefit plan, a health carrier or pharmacy benefits manager shall include any amounts paid by the enrollee or paid on behalf of the enrollee for any medication for which a generic substitute is not available.

Additionally, no health carrier or pharmacy benefits manager shall design benefits in a manner that takes into account the availability of any cost-sharing assistance program for any medication for which a generic drug substitute is not available.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Commerce and Insurance
Department of Public Safety - Missouri Highway Patrol
Department of Social Services
Missouri Department of Conservation
Missouri Department of Transportation
Kansas City

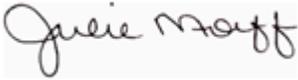
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