2nd Substitute SB 69 MEDICATION AMEMDMENTS (VICKERS, EVAN)

Anticipated Fiscal Impact: PEHP will change business practices to offset $889,625 or $1.21 PMPM cost of this bill

The intent of 2nd Sub SB 69 is the same as HB 519, which is to make it possible for 340B entities to receive the financial benefit of heavily discounted drugs in situations where a 340B eligible patient chooses a pharmacy that is not affiliated with the 340B entity.

Like HB 519, 2nd Sub SB 69 includes a provision asking PEHP to mitigate the costs of this bill by altering its business practices. As is the case for HB 519, we believe this is possible to do in two ways. First, PEHP can seek to direct high-cost specialty drugs away from 340B entities to generate at least $900,000 in rebates that it is currently losing. Second, PEHP can engage in negotiations with 340B entities to improve discounts for medical services outside of 340B to make up for lost rebates. Of these two, directing high-cost specialty drugs away from 340B entities is something we believe is possible for PEHP today. At the same time, we believe that the addition of this language would also prove to be helpful in seeking cost mitigation through negotiation. As such, we believe that changing business practices can generate the $889,625 necessary to offset the costs of this bill.

In addition to this provision, 2nd Sub SB 69 includes language in which the Department of Insurance, in consultation with the Utah Pharmacy Board, will contract with an independent third party to gather claims-related information from 340B entities to identify for health plans the rebates that are being lost. While disclosure would not restore lost rebates per se, it would create a transparent environment for discussing and potentially mitigating their impact. Further, while the bill restricts pharmaceutical manufacturers from limiting the availability of 340B drugs to 340B entities or those they contract with, it does not restrict health plans from taking action to mitigate rebate losses.

As for the costs of this bill our analysis is as follows:

A health plan's costs for drugs are higher when they are subject to 340B pricing. Under federal law, 340B entities are eligible to purchase drugs at significant discounts, which they are allowed to resell to commercial health plans at the full market price while keeping the difference. What makes 340B drugs more costly to health plans is the loss of manufacturer rebates. Because the discounts on 340B drugs are so significant, drug manufacturers are unwilling to pay rebates on top of 340B discounts. Rebates for all 340B drugs are significant at about 41% of the price.

As we read the 2nd Sub SB 69, it would cost the state health insurance plan $889,625 in lost rebates by expanding access to 340B drugs.

Currently PEHP spends about $44,742,530 on behalf of the state for drugs that are eligible for 340B pricing. Of this, currently $35,205,154 or 78.7% are not purchased through a 340B entity while $9,537,376 or 21.3% are. The current rebate for all 340 eligible drugs is 41%. This means that the state realizes $14,674,136 in rebates savings for drugs that are not purchased through a 340B entity. It also means that the state is currently losing about $3,910,324 in rebate savings for drugs that are purchased through a 340B entity.

There is a subset of about thirty-five 340B drugs (for example, Trulicity, Stelara, Ozempic) that drug manufacturers will only send to a 340B entity for dispensing. So called one-pharmacy rule drugs. This means that if a 340B eligible patient filled their prescription anywhere other than with the 340B entity, the dispensed drug would not benefit from 340B pricing and normal rebates would be paid to health plans (rebates for this subset of drugs is 31%). Currently, the state health insurance plan receives $889,625 in rebates for 340B eligible drugs that are filled at pharmacies other than the 340B entity.

2nd Sub SB 69 would override the "one pharmacy rule" by requiring manufacturers to send 340B drugs to the pharmacy that a 340B eligible patient uses as long as it had a contractual relationship with a 340B entity, thus expanding 340B discounted drugs and resulting in lost rebates for the state health insurance plan.

ANTICIPATED FISCAL IMPACT ON EDUCATION AND LOCAL GOVERNMENT ENTITIES – PEHP will also seek to mitigate the cost increase of $1.21 per member per month for other public employers covered by PEHP by altering business practices

Pursuant to Utah Code Ann. 31A-22-605.5(2)(b) and (3) – a health insurance mandate shall apply to health coverage offered in the state risk pool, public school districts, charter schools and institutions of higher education. The same PMPM fiscal impact would be applicable to each of these entities covered by PEHP. PEHP does not cover every public school district, charter school or institution of higher education in the state. Some public entity employees are insured through private insurance carriers. The fiscal effect on the PEHP covered public entities would be:

• State risk pool, excluding state, but including higher education (Weber St, USU Eastern, Snow, Utah Tech, and technical colleges) - $1.21 PMPM x 12,958 members = $188,150 per year

• Public School districts and charter schools - $1.21 PMPM x 32,026 members = $465,018 per year

• Local Governments – $1.21 PMPM x 52,164 members = $757,421 per year