

Preliminary

Fiscal Note

2021-2022 Legislative Session

HF58 - 4A - Reporting Prescription Drug Prices; Coverage

Chief Author: **Steve Elkins**
 Committee: **Health Finance and Policy**
 Date Completed:
 Agency: **Minn Management and Budget**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024
General Fund	-	-	3,727	7,827	8,219
State Employees Insurance	-	-	-	-	-
All Other Funds	-	-	7,671	16,110	16,915
Total	-	-	11,398	23,937	25,134
Biennial Total			11,398		49,071

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	-	-	-
State Employees Insurance	-	-	-	-	-
All Other Funds	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

LBO Signature: Date:
 Phone: Email:

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	-	3,727	7,827	8,219
State Employees Insurance	-	-	-	-	-
All Other Funds	-	-	7,671	16,110	16,915
Total	-	-	11,398	23,937	25,134
Biennial Total			11,398		49,071
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	3,727	7,827	8,219
State Employees Insurance	-	-	13,178	27,673	29,056
All Other Funds	-	-	7,671	16,110	16,915
Total	-	-	24,576	51,610	54,190
Biennial Total			24,576		105,800
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
State Employees Insurance	-	-	13,178	27,673	29,056
All Other Funds	-	-	-	-	-
Total	-	-	13,178	27,673	29,056
Biennial Total			13,178		56,729

Bill Description

This bill requires manufacturers and health plans to report and maintain prescription drug prices; requires health plans to file prescription drug formularies; establishes requirements for a prescription benefit tool; and requires prescription drug benefit transparency and disclosure.

Assumptions

Minnesota Management and Budget (MMB) administers the State Employee Group Insurance Program (SEGIP) which provides health, dental, life and other benefits to eligible State employees and their dependents, and other groups including quasi-state agencies under the legislative authority provided in Minnesota Statutes 43A. Health benefits are provided through the self-funded Minnesota Advantage Health Plan. SEGIP contracts with three health plan administrators to administer medical benefits and a Pharmacy Benefit Manager (PBM) to administer its prescription drug benefit.

Under Article I, SEGIP would be required to file their prescription formulary annually with the Commissioner of Commerce for public posting. Manufacturers would not be allowed to increase the wholesale acquisition cost of the drug in the next calendar year if the drug was on the previous year's publicly posted formulary. SEGIP is not attributing a fiscal impact to Article I, however, it is possible that manufacturers could increase their prices for new drugs to make up for not being able to increase prices on existing formulary drugs that could have a fiscal impact on SEGIP's costs.

SEGIP expects significant fiscal impact from Article 2, Section 3, Subdivision 3, which describes the changes that a health carrier can make to their formulary during an enrollee's contract term. After consulting with SEGIP's PBM that maintains the formulary, it appears that this legislation would require SEGIP to move from its currently selected formulary to a custom opt-out formulary. SEGIP's current formulary allows for mid-year formulary drug changes that include steering members to drugs with the lowest net cost due to manufacturer rebates from branded drug products, specialty drug management, excluding drugs based on hyperinflation, and utilization management through prior authorization. SEGIP's PBM interprets this section to limit or outright prevent these mid-year formulary changes.

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To estimate the fiscal impact of this legislation, our PBM reviewed SEGIP's pharmacy claims experience from 2020 under our current formulary and compared the effect on rebates of moving to the opt-out custom formulary that would be necessary as a result of the legislation. The opt-out custom formulary has less generous rebate contracts, and the switch to that formulary is estimated to result in the loss of \$25,000,000 in manufacturer rebates. The opt-out custom formulary also requires a Pharmacy & Therapeutics Committee (P&T) to manage the custom formulary, which adds \$100,000 in annual administrative costs.

The 1st Engrossment of HF58-0 removed Article 3, Section 1, which prohibited health carriers from denying a prior authorization or second opinion solely because it was tendered late, if that prior authorization would have been granted under the enrollee's health plan had prior authorization or second opinion been obtained. The inclusion or exclusion of Article 3, Section 1, does not result in a cost to SEGIP.

Amendment 4A (the basis for this fiscal note) changes the annual prescription drug price reporting dates for manufacturers and the commissioner of health. It also changes the effective date of the legislation from January 1, 2022 to January 1, 2023. The effective date change moves the fiscal impact from 2022 to 2023. However, the fiscal impact amount stays the same because there is no change in Article 2, Section 3, Subdivision 3.

We assume that manufacturer rebate amounts would be similar for SEGIP on its current formulary in future years when estimating rebate losses, as a result of having to switch to the opt-out custom formulary. Estimated costs identified in this fiscal note are in current dollars. We have added a 5% inflation factor beginning in FY2023 and beyond to account for increasing drug costs. Assuming an effective date of 01/01/2023, SEGIP estimates a partial year fiscal impact of \$13,177,500 for FY2023.

Expenditure and/or Revenue Formula

FY23: (\$25,000,000 lost drug rebates + \$100,000 P&T Admin Fee) * 1.05 (inflation) / 2 (6 out of 12 months)

FY24: FY23 costs * 2 (to reflect full 12 months) * 1.05 (inflation)

Fiscal Year Cost Calculation	FY21	FY22	FY23	FY24	FY25
Total Cost to SEGIP of this bill	\$0	\$0	\$13,177,500	\$27,672,750	\$29,056,388

SEGIP's costs are funded by contributions paid by employers and employees. Our fiscal note assumes that 86.5% of added costs will be paid by state agencies. This figure represents the proportion of employees on active payroll (97.4%), meaning those who receive an employer contribution, multiplied by the average employer contribution rate across all current collective bargaining agreements and compensation plans (88.8%).

Thus, 86.5% of added costs will be paid by agencies and 13.5% will be paid by employees.

The table below reflects how these costs are split between the employer and employee. The employer costs are further split between the General Fund (32.7%) and All Other Funds (67.3%) on the same basis that state agencies pay for employee medical insurance premiums.

Fiscal Year Cost Calculation	FY2021	FY2022	FY2023	FY2024	FY2025
Employee share 13.5%	\$0	\$0	\$1,778,963	\$3,735,821	\$3,922,612
Employer share 1000 General Fund	\$0	\$0	\$3,727,322	\$7,827,376	\$8,218,744
Employer share 9998 All Other Funds	\$0	\$0	\$7,671,216	\$16,109,553	\$16,915,031
Total	\$0	\$0	\$13,177,150	\$27,672,750	\$29,056,388

Long-Term Fiscal Considerations

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Local Fiscal Impact

MMB expects local units of government may incur increased spending due to the changes proposed in this legislation.

References/Sources

Program Information and claims data from SEGIP, administered by MMB.

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