

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3970

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: MAY 12, 2020

SUMMARY

Synopsis: Requires Medicaid and health insurance coverage for certain refills of prescription drugs during state of emergency.

Type of Impact: Shift in State expenditures.

Agencies Affected: Department of Human Services, Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Expenditures	Indeterminate Shift		

- The Office of Legislative Services (OLS) estimates that this bill may have an indeterminate, minimal impact on State expenditures under the New Jersey FamilyCare program, State Health Benefits Program (SHBP), and School Employees' Health Benefit Program (SEHBP) due to forward shifts in the timing of payment of prescription claims. To the extent that FamilyCare beneficiaries and covered State health plan members refill certain prescriptions early, whenever the emergency conditions explained in the bill apply, State reimbursements to prescription drug providers may be accelerated. Depending upon the timing and duration of the emergency conditions, the indeterminate expenditure shifts may occur either entirely within the same fiscal year or may span two fiscal years.
- The OLS assumes that any State expenditure shift would be unlikely to affect the timing of the payment to the State of federal Medicaid matching funds or pharmaceutical manufacturer rebates. The OLS also anticipates that none of the likely rare expenditure accelerations would affect the total amounts of State expenditures, federal Medicaid reimbursements, or pharmaceutical manufacturer rebates.

BILL DESCRIPTION

This bill requires carriers that offer a health benefits plan providing benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, as well as the State

Medicaid program, to provide coverage of prescription drug refills even when the covered person has not yet reached the scheduled refill date, provided that the prescription itself would remain valid beyond the refill date and the covered person will be eligible beyond the refill date, in a manner calculated to ensure an enrollee's ability to maintain at least a 30-day supply, or a 90-day supply of a maintenance medication supply at home, but not to exceed a 120-day supply at any given time. The coverage is to be based on the authorization for the most recently filled prescription and additional authorization is not required. The provisions of the bill take effect if a state of emergency or public health emergency is declared or an emergency supply of a drug is recommended by the Centers for Disease Control and Prevention and if it is determined that an emergency supply of prescription drugs is necessary.

The coverage is required to be provided to the same extent as for any other refills of prescription drugs, except that in the event of a drug shortage or access issue, formulary flexibility is required to be provided; and no fees shall be imposed for home delivery of the drugs.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may cause the State to experience forward shifts in payments of prescription medication claims for New Jersey FamilyCare enrollees and SHBP and SEHBP members whenever the emergency conditions explained in the bill apply. Currently, the State provides prescription drugs for most FamilyCare beneficiaries at no cost and requires minimal cost-sharing for prescription drugs for certain enrollees. Children under the age of 19 whose gross family income is between 150 and 200 percent of the federal poverty level (FPL) are enrolled in FamilyCare – Plan C. The families of these children pay \$1.00 for a one-month supply of a generic version of a prescription medication, and \$5.00 for a one-month supply of a branded prescription drug. FamilyCare - Plan D provides coverage to children under the age of 19 whose gross family income ranges from 200 percent to 350 percent of the FPL, as well as adults earning less than 133 percent of the FPL. FamilyCare - Plan D enrollees are charged a \$5.00 copayment for up to a 34-day supply of prescription drugs, and a \$10.00 copayment for prescriptions that exceed a 34-day supply.

Current State regulations restrict the amount of prescribed medication dispensed at one time as well as the timing of prescription refills under the FamilyCare program. Initial prescriptions are restricted to a 34-day supply of medication, while prescription refills are limited to a 34-day supply, or 100-unit doses of the medication, whichever is greater. Additionally, FamilyCare beneficiaries are prohibited from refilling prescriptions before 75 percent of the prescribed medication is consumed according to the prescriber's orders.

To the extent that FamilyCare beneficiaries and SHBP and SEHBP members may fill prescriptions early, whenever the emergency conditions described in the bill apply, State reimbursements to prescription drug providers may be accelerated. Depending upon the timing and duration of the emergency conditions, these expenditure shifts may occur either entirely within the same fiscal year or may cross fiscal years. However, the total amount of prescription drug claims reimbursed by the State would not change; although some minimal additional costs to the State may arise if a patient's prescription is changed after being pre-filled. In addition, the OLS assumes that any shift in the timing of State expenditures for prescription drugs would be unlikely

to affect the timing of the payment to the State of federal Medicaid matching funds or pharmaceutical manufacturer rebates.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).