

February 10, 2011

The Honorable Vicki Schmidt, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 552-S
Topeka, Kansas 66612

Dear Senator Schmidt:

SUBJECT: Fiscal Note for SB 99 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 99 is respectfully submitted to your committee.

SB 99 would establish the Electronic Prescription Adoption Act and establish requirements for prescription drug orders transmitted from a prescriber to a pharmacy through an electronic transmission or e-prescription. The bill would require that any e-prescription be directly transmitted from the prescriber to a pharmacist with sufficient information to identify the prescriber and without interference from the electronic transmission mechanism. The electronic transmission device used for the e-prescription would not be allowed to interfere with the prescription by means of a medication limit list or multiple messaging at the point of the prescription being submitted to a pharmacy.

SB 99 would also prohibit the e-prescribing mechanism from attempting to influence the prescribing decision of a health care provider at the point of care. The e-prescription mechanism would not be allowed to provide information about alternative drugs to the one being prescribed due to a health plan formulary or preferred status of a drug. Currently, messaging tools are available for use with electronic health records that alert a prescriber to the fact that a less expensive drug alternative is available. The bill would allow an e-prescribing system to show formulary information if all covered drugs and pharmacies are disclosed and nothing in the system is designed to preclude or make selection of a drug or pharmacy more difficult for a prescriber or the patient.

The Board of Pharmacy indicates that the passage of SB 99 would have no fiscal effect on its operations. However, the Board states that there is a potential indirect cost to the state if prescribers are not reminded that a generic or less costly brand alternative is available when submitting an electronic prescription. The bill could increase costs to insurers and patients because an important formulary messaging tool would no longer be available.

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The Kansas Health Policy Authority states that the Medicaid program does not currently have an e-prescribing mechanism available to prescribers. Information about preferred drugs, generic drug substitutions, and formulary are provided to prescribers and pharmacies. This information is available through provider manuals to prescribers and through the automated payment system for pharmacies and is reviewed as a prescription is entered into the claims system for payment. The e-prescribing provisions of SB 99 would not affect Medicaid expenditures in the current or budget year, but may affect future years' expenditures. The federal HITECH Act creates incentives for prescribers to adopt electronic health records and health information technology that would support e-prescribing. The bill's restrictions on messaging and automating formulary information would make the technology less useful to prescribers and put the burden on the pharmacy to apply the formulary rules at the point of dispensing.

In the State Employees Health Benefit Plan, the pharmacy benefit manager, Caremark, has deployed a test number of e-prescribing devices in prescriber offices. These devices and the system they use to transmit prescriptions may have to be modified to comply with SB 99 if the bill is passed. This would not carry a cost to the state. The payment rules for generic versus name brand drugs, preferred drugs, and other rules are applied at the pharmacy when prescriptions are filled. There would be no increase in costs related to SB 99 expected for the State Employees Health Benefit Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Debra Billingsley, Pharmacy
Cathy Brown, Healing Arts