FISCAL IMPACT STATEMENT ON BILL NO. ***S.206***
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TO:	The Honorable David Thomas, Chairman, Senate Banking and Insurance Committee		
FROM:	Office of State Budget, Budget and Control Board		
ANALYSTS:	Kenneth Brown, Beth Campbell, Allen Kincaid, Torina Wood		
DATE:	May 2, 2007	SBD:	2007316

AUTHOR:	Senator Cromer	PRIMARY CODE CITE:	38-71-1600
SUBJECT:	Pharmacy Benefit Manger Licensure and Solvency Act		

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
See Below

BILL SUMMARY:
The Bill would enact the "Pharmacy Benefit Manager Licensure and Solvency Protection Act" providing for the licensure and regulation of Pharmacy Benefit Mangers, requires a certificate of authority to act as a Pharmacy Benefits Manager requirement for record maintenance, annual reporting and operations, and provides procedures for establishing medication reimbursement costs to be paid to network pharmacies.

EXPLANATION OF IMPACT:
Department of Insurance
The Department indicates this Bill would require additional funding totaling $130,555 the first year of implementation. Costs would cover recurring salary and fringe benefits of $102,855 for three (3.00) positions including an administrative assistant, auditor and an investigator. Recurring operating expenses are estimated at $7,200. One-time operating expenses totaling $20,500 would also be needed.

Additional staff would process application reviews (38-71-1615 and 1640), perform analysis and conduct examinations (38-71-1630(C)) and investigate complaints (38-71-1670). If fee revenue (38-71-1610(10), 38-71-1620 (B) & 38-7-1635) is not sufficient to cover agency expenses there would be an impact on the General Fund of the State.

State Budget and Control Board – Employee Insurance Plan (Plan)
A review of this Bill by the Board has identified five areas that could have an impact on the Plan and its participants.

1. Sections 38-71-1625 C (1) and (2) and 38-7-1635 require that a Pharmacy Benefit Manager (PBM) disclose certain agreements with pharmaceutical manufacturers. Currently, the EIP through a competitive process with its PBM receives rebate and fee income from pharmaceutical manufacturers resulting in lower employer/employee contributions. According to the EIP no less than $36.8 million is guaranteed as pharmaceutical manufacturer income to the Plan for the current year based on enrollment. Requiring the PBM to disclose certain agreements may affect such agreements which may result in reduction of income to the Plan, therefore, shifting cost to the employer/employee.

2. Section 38-71-1645 (E) states a PBM may not discriminate when contracting with pharmacies on the basis of co-payments or days of supply. A contract shall apply the same coinsurance, co-payment and

deductible to covered drug prescriptions filled by any pharmacy, including a mail-order pharmacy or pharmacist who participates in the network.

Currently, because of favorable pharmacy reimbursement rates, the Plan has established patient co-payments for mail service pharmacy that are less than those at a retail pharmacy. These rates have been established as part of the competitive bid process for the Plan's PBM. According to the EIP approximately 10% of the Plan's prescriptions were filled through mail service in 2006. If these prescriptions had been filled at retail pharmacies, the Plan and its participants would have paid an additional $2.88 million and $2.45 million, respectively.

3. Section 38-71-1655(1) would limit brand products pricing to certain indexes. Although this provision does not affect the Plan currently, it would eliminate any new methodologies that may at a later date become nationally recognized benchmarks.

4. Section 38-71-1655(2) addresses the reimbursement of generic drugs. A review of this section by the EIP indicates that limiting the use of Maximum Allowable Cost (MAC) methodology in compliance with the Bill would have increased the cost of generic drugs to the Plan by $5.9 million based on the calendar year 2006 utilization. Further, it is anticipated these savings will increase as highly utilized brand drugs will soon lose patent protection.

5. Section 38-71-1660(A) requires that electronic claims be paid to the pharmacy within seven calendar days of the claim. Currently, the EIP utilizes its contractor's standard payment cycle for pharmacies. Electronically–filed pharmacy claims are accumulated in a two-week cycle, with pharmacies paid on the fourteenth day after the end of the cycle. This required change in the payment cycle would have an impact on administrative cost and incur a loss of investment income to the EIP of $600,000 per year.

Department of Labor, Licensing and Regulation and Department of Mental Health
The Department of Labor, Licensing and Regulation and the Department of Mental Health report this Bill will have no impact on the General Fund of the State or on Federal and/or Other Funds.

LOCAL GOVERNMENT IMPACT:
None.

SPECIAL NOTES:
The Board of Economic Advisors is the appropriate entity to address any revenue impact associated with this or any other Bill.

Approved by:

Harry Bell
Assistant Director, Office of State Budget