

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 1266

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Montford and Garcia

SUBJECT: State Employees' Prescription Drug Program

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1266 amends s. 110.12315(2), Florida Statutes, relating to the state employees' prescription drug program, to allow the Department of Management Services to negotiate a dispensing fee for 90-day maintenance drugs at retail, and to authorize a 90-day supply of maintenance prescriptions to be filled at retail. The bill also limits the reimbursement for retail and mail order purchases to the amount contracted by the department for prescriptions fulfilled by mail order.

The bill also repeals subsection (1) of section 54 of Chapter 2013-41, Laws of Florida, which, if not repealed, would revert the text of s. 110.12315, F.S., to the text as it existed on June 30, 2013.

The bill provides for an effective date of July 1, 2014.

II. Present Situation:

Under the authority of s. 110.123, Florida Statutes, the Department of Management Services (Department), through the Division of State Group Insurance, administers the state group insurance program providing employee benefits such as health, life, dental, and vision insurance products under a cafeteria plan consistent with Section 125, Internal Revenue Code.

As part of the State Group Insurance Program, the Department contracts with a pharmacy benefits manager (PBM), Express Scripts, Inc., for the State Employees' Prescription Drug Plan. The Department is not a party to the private business contracts between the PBM and its retail pharmacies.

Section 110.12315, F.S., states: "The Department may implement a 90-day supply limit program for certain maintenance drugs as determined by the department at retail pharmacies participating in the program if the department determines it to be in the best financial interest of the state."

Members of the State Employees' Prescription Drug Plan may get up to a 90-day supply through mail order and specialty pharmacy and may get up to a 30-day supply through a retail pharmacy. The General Appropriations Act requires that PPO Plan members be limited to three retail pharmacy fills of certain maintenance drugs after which the prescription must be filled at mail order. Members of the HMO Plans are not required to use mail order for maintenance drug prescriptions but may choose to do so.

The dispensing fees for prescriptions filled at mail order and for prescriptions filled at retail pharmacies, \$4.22 and \$4.28 respectively, are specified in the contract with Express Scripts. Section 110.12315(1)(c), F.S., also states that "the current pharmacy dispensing fee remains in effect."

The contract with Express Scripts contains pricing provisions for discounts off AWP (average wholesale pricing) and quarterly minimum guarantee payments of earned rebates. Such pricing provisions are for current Plan designs (PPO and HMO) and include pricing adjustments for Plan design changes.

Chapter 2013-41, Laws of Florida, was the Implementing Bill for the General Appropriations Act for Fiscal Year 2013-14. Section 54(1), ch. 2013-41, provides:

"[t]he amendment to s. 110.12315(2)(b), Florida Statutes, as carried forward by this act from chapter 2012-119, Laws of Florida, expires July 1, 2014, and the text of that paragraph shall revert to that in existence on June 30, 2012, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section."

Effective July 1, 2014, s. 110.12315(2)(b), F.S., will read:

(b) There shall be a 30-day supply limit for prescription card purchases and 90-day supply limit for mail order or mail order prescription drug purchases.

III. Effect of Proposed Changes:

CS/SB 1266 amends section 110.12315, F.S., to set the pharmacy dispensing fee at the lesser of:

1. \$4.28 for each prescription filled at retail;
2. \$4.22 for each prescription filled at mail order; or
3. The amount negotiated by the department for a 90-day supply of a drug on the mandatory maintenance drug list which is filled at a retail pharmacy.

The bill removes the current limitation that allows a 90-day supply limit program for prescription drug purchase at retail pharmacies be implemented only if the department determines it is in the best financial interest of the state. The bill also limits the reimbursement for retail and mail order purchases to the amount contracted by the department for prescriptions fulfilled by mail order.

Per the proviso language in Section 8 of the 2013-14 General Appropriations Act, PPO Plan members are required to fill maintenance prescriptions at mail order after three fills at retail. It is unclear if PPO Plan members would be able to fill their maintenance prescriptions at retail instead of mail.

CS/SB 1266 repeals subsection (1) of s. 54 of ch. 2013-041, Laws of Florida. This allows the language of the bill to take effect without any attempt to harmonize any perceived inconsistencies between the bill and the law that was in effect on June 30, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Retail pharmacies may experience a greater volume of prescription refills as a result of this bill. On the other hand, mail order pharmacies will experience a similar reduction in volume in prescription refills.

C. Government Sector Impact:

Indeterminate. The State Employee Health Insurance Trust Fund may pay less in pharmacy dispensing fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 110.12315 of the Florida Statutes.

This bill repeals subsection (1) of section 54 of chapter 2013-41, Laws of Florida.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on April 3, 2014:

The CS limits the reimbursement for retail and mail order purchases to the amount contracted by the department for prescriptions fulfilled by mail order.

- B. **Amendments:**

None.