



Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: [Am. S.B. 99 of the 130th G.A.](#) **Date:** January 16, 2014
Status: As Reported by Senate Insurance & Financial Institutions **Sponsor:** Sens. Oelslager and Tavares

Local Impact Statement Procedure Required: Yes

Contents: Insurance coverage for orally administered cancer medications

State Fiscal Highlights

- The provision that prohibits insurers from placing a prescribed cancer medication on a higher price tier than it occupies on the effective date of the bill is likely to increase costs to the state of providing health benefits to its employees and their dependents. LSC staff do not yet have an estimate of the magnitude of the fiscal impact on the state's self-insured health plan.
- The bill would increase the Department of Insurance's administrative expenses related to regulation and enforcement of coverage for cancer chemotherapy medications. Any such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill allows the Superintendent of Insurance to impose penalties for violations related to coverage for cancer chemotherapy medications. Any penalties related to such violations may increase revenue to Fund 5540.

Local Fiscal Highlights

- The requirement that the bill imposes on health insurers may increase insurance premiums of local governments' health benefit plans. Any increase in insurance premiums would increase costs to local governments to provide health benefits to employees and their dependents. Any such increase is unlikely to exceed \$1 million per year statewide in total, for counties, municipalities, townships, and school districts. Any political subdivision that already provides the required benefit would experience no cost increase.

Detailed Fiscal Analysis

The bill would prohibit health insurers that provide coverage for cancer chemotherapy treatment from providing less favorable coverage for orally administered cancer chemotherapy treatments than coverage for intravenously administered or injected cancer medications. "Health insurers" in this bill include health insuring corporations (HICs), sickness and accident insurance policies for an individual or group, public employee benefit plans, and multiple employer welfare arrangements.¹

The bill specifies that an insurer is not allowed to impose a coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense that is greater than any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense that applies to coverage for intravenously administered or injected cancer medication. The bill also prohibits such insurers from placing a prescribed orally administered cancer medication, intravenously administered, or injected cancer medication on a higher price tier than it occupies on the effective date of the bill.

The bill allows the Superintendent of Insurance to hold hearings and impose certain penalties for violations related to coverage for cancer chemotherapy medications. The bill allows a court to impose a civil penalty of up to \$35,000 in total for one or more violations occurring in a six-month period or a civil penalty of up to \$10,000 for each violation of a cease and desist order. All penalties must be deposited into the Department of Insurance Operating Fund (Fund 5540).

Under current law, no mandated health benefits legislation enacted by the General Assembly may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.

The bill specifies that the act be named the "Robert L. Schuler Act."

Fiscal effect

The bill would increase the Department of Insurance's administrative expenses related to regulation and enforcement of coverage for cancer chemotherapy medications. LSC staff believe that any increase in such expenditures would likely be minimal. Currently, the Department's administrative costs are paid from Fund 5540. In

¹ The bill specifies that the prohibitions do not apply to any individual or group policy of sickness and accident insurance that provides coverage for specific diseases or accidents only, or to any hospital indemnity, Medicare supplement, disability income, or other policy that offers only supplemental benefits.

addition, any penalties related to coverage for cancer chemotherapy medications may increase revenue to Fund 5540. The amount of such revenue would depend on the number of such violations.

According to a Department of Administrative Services (DAS) official, the state's health benefit plans are currently providing coverage for a prescribed and orally administered cancer medication for cancer chemotherapy treatments. However the provision that prohibits an insurer from placing a prescribed orally administered cancer medication, intravenously administered or injected cancer medication on a higher price tier than it occupies on the effective date of the bill is likely to increase costs to the state of providing health benefits to its employees and their dependents. Neither LSC staff nor DAS officials have yet been able to estimate the magnitude of the fiscal impact on the state's self-insured health plan.

The requirement under the bill may increase insurance premiums for local governments' health benefit plans. Any increase in insurance premiums would increase costs to local governments to provide health benefits to employees and their dependents. If some of the local government plans already included both treatments, those plans would experience no fiscal impact of the requirement. LSC staff is unable to quantify the bill's fiscal impact on local governments due to lack of information on the specific benefits offered under their employee health benefit plans. Despite the uncertainties caused by data limitations, though, LSC staff consider it unlikely that the costs to local governments would exceed \$1 million per year statewide. That figure is derived from an estimate for the state of California by the California Health Benefits Review Program (CHBRP), and is thereby dependent upon both the accuracy of the CHBRP estimate and on the validity of adjustments made to that estimate to arrive at a figure applicable to Ohio's public employers. Generally, orally administered cancer chemotherapy treatments are included under a prescription plan.

Background information

According to data from the National Program of Cancer Registries,² in 2010 25,784 new cases of cancer were diagnosed and reported among Ohioans who are under 65 years old. Based on data derived from the Annual Social and Economic Supplement of the Current Population Survey (CPS), published by the U.S. Census Bureau, in 2012, approximately 58.4% of Ohioans received their health insurance coverage through their employers. In addition, according to U.S. Bureau of Labor Statistics (BLS) annual average nonagricultural employment data for Ohio in 2012, 1.1% of the Ohio nonfarm workforce was employed by state government, 4.7% was employed by local government, and 5.3% was employed in local government education. Using the number

² Source: National Program of Cancer Registries: 1999 – 2010 Incidence, WONDER On-line Database, United States Department of Health and Human Services, Centers for Disease Control and Prevention and National Cancer Institute; 2013. Accessed at <http://wonder.cdc.gov/cancernpcr.html> on November 18, 2013.

of cancer cases and the percentage of Ohioans that received their health insurance coverage through their employers as stated above, approximately 15,058 new cancer patients each year may be covered by an employer's health plan. Assuming 4.7% of those individuals were employed by local government, and 5.3% were employed in local government education, the estimated number of new cancer patients that may be covered under a county, municipality, or township health plan is approximately 708, and the number of cancer patients that may be covered by a school district-sponsored health plan is about 798. At a cost between \$10 and hundreds of dollars for a 30-day supply of anticancer pills, the estimated costs to provide coverage for a prescribed oral anticancer medication for all new cancer patients covered by a local government's health benefit plan would likely be over \$180,720 and could be up to tens of millions of dollars in each year statewide, depending on the type of anticancer drugs used and the number of people being treated for cancer. The requirement would shift some of the estimated cost from an insurance beneficiary to an insurer.

In 2009, California enacted a law similar to S.B. 99.³ According to a study conducted by the CHBRP dated April 17, 2009, the California bill would increase insurance premiums paid by both employers and employees by almost \$19.7 million. The study concluded that the average portion of the premium paid by an employer would increase between \$0.03 and \$0.24 per member per month (PMPM), and the average portion of the premium paid by employees would increase between \$0.01 and \$0.04 PMPM.

Although the study was based on data for California, the estimates could be a good indicator of how much an insurance premium paid by both employers and employees in Ohio may increase if S.B. 99 were enacted. Based on the study, approximately 18.5 million Californians under age 65 were covered under an employer's health insurance plan in 2007. Using data from the U.S. Census Bureau, about 6.0 million people under age 65 were covered under an employer plan in Ohio in 2012. Adjusting the \$19.7 million cost estimate for the difference in insured populations, the CHBRP estimate implies that the bill's requirement would raise costs for all Ohio employers by approximately \$6.4 million per year. Based on their shares of Ohio employment in 2012, local government and school district employers would see cost increases of roughly \$0.6 million of that \$6.4 million. The accuracy of the \$0.6 million figure depends on the accuracy of the CHBRP estimate and on a number of assumptions about the comparability of Ohio's and California's health care markets. Thus, the most that LSC staff can say about the bill's cost is that it is unlikely to increase costs for local governments statewide by more than \$1 million per year.

³ S.B. 161 for the 2009-2010 California State Legislature.