
OLR Bill Analysis

sSB 392

AN ACT CONCERNING PHARMACY REIMBURSEMENT.

SUMMARY:

This bill increases, in two ways, the amount DSS reimburses independent pharmacists for dispensing brand-name drugs to individuals enrolled in its medical assistance programs that offer a drug benefit (e.g., Medicaid). First, it reduces the discount it takes off the average wholesale price (AWP) from 16% to 14%. Second, it increases, from \$2 to \$4, the dispensing fee it pays for each prescription these pharmacies fill. Chain pharmacies continue to be paid AWP-16% plus \$2 for drugs they dispense to DSS beneficiaries (see BACKGROUND).

A chain pharmacy is defined as a publicly traded community pharmacy. An independent pharmacy is a privately owned community pharmacy that has 20 or fewer stores in Connecticut.

EFFECTIVE DATE: July 1, 2012

BACKGROUND

Constitutionality of Two-Tiered Reimbursement System and Other States' Two-Tiered Systems

At least two federal cases on this issue have been decided, although neither would have a direct bearing here. Arkansas pays independent and chain pharmacies different rates for filling Medicaid prescriptions. An Arkansas federal court in 2000 held that the state's two-tiered payment system violated both federal Medicaid law and the U.S. Constitution's equal protection clause. In 2007, a U.S. Circuit court (5th Circuit) dismissed a challenge to Louisiana's two-tiered payment system because the issue had already been decided. In the state's earlier case, the court determined that the federal Medicaid statute did not give the plaintiff the right to sue (*Wal-Mart Stores, Inc. v. Knickrehm*,

101 F. Supp 2nd 749 (E.D. Ark. 2000) and *Walgreen Co. v. Louisiana Dept. of Health and Hospitals*, 220 Fed. Appx. 309 (5th Cir. 2007).

Michigan also has a two-tiered reimbursement system for chain and independent pharmacies.

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 16 Nay 0 (03/22/2012)