LD 1706, An Act To Require Appropriate Coverage of and Cost-sharing for Generic Drugs and Biosimilars

SUMMARY:

This bill requires that formularies for prescription drugs approved for coverage under a health plan contain tiers of generic drugs or biosimilars that are equivalent to the approved branded drugs, and that cost-sharing through coinsurance or a copayment make the cost of the generic drug or biosimilar meaningfully lower than the cost of the equivalent branded drug. A biosimilar is a biological product licensed by the United States Food and Drug Administration that is highly similar to a branded prescription drug.

The bill also prohibits prior authorization, step therapy or other limitations on coverage of generic drugs or biosimilars on a formulary or any restrictions on a pharmacy that makes it more difficult to obtain a generic drug or biosimilar than the equivalent branded drug.

LD 1706, An Act To Require Appropriate Coverage of and Cost-sharing for Generic Drugs and Biosimilars

TESTIMONY: Written testimony can be found at this link

ISSUES FOR CONSIDERATION:

1. LD 1706 is similar to a bill considered by the HCIFS Committee in 129th Legislature, LD 2095, An Act To Require Appropriate Coverage of and Cost-sharing for Generic Drugs and Biosimilars. LD 2095 was voted ONTP. LD 2095 was broader in scope; LD 1706 includes the provisions from LD 2095 focused on cost-sharing requirements .

2. Consider impact on "net cost"? Given market dynamics and availability of rebates, carrier representatives and PBM representatives noted that this should be the focus, not whether a particular drug is generic or biosimilar or brand drug. Representatives of generic manufacturers indicated rebates prevent patients from accessing lower cost generics and have to pay higher out-of-pocket costs.

3. Under current law, rebates must now be passed on to consumers or reflected in reduced premiums. Committee asked for information from Bureau of Insurance about preliminary information reported by PBMS related to rebates.

4. Concerns also raised about impact of bill's provision on generic exclusivity period and ability to negotiate lower prices through rebates on branded drugs during this period?

LD 1706, An Act To Require Appropriate Coverage of and Cost-sharing for Generic Drugs and Biosimilars

ISSUES FOR CONSIDERATION (cont'd):

5. Consider impact of prohibiting prior authorization and step therapy requirements for generic drugs or biosimilars? Is it appropriate to have different requirements than for branded drugs on a carrier's formulary?

6. The Bureau of Insurance testimony neither for nor against raised concerns about language in the bill, including why there is an exemption for plans that do not use a tiered formulary, how to determine disputes over meaning of "meaningfully lower" and why there is a requirement for a "meaningfully lower" coinsurance for generic or biosimilar drugs.

FISCAL INFORMATION:

Not yet determined