

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

FISCAL AND POLICY NOTE

House Bill 366 (Delegates Boutin and Morhaim)  
 Health and Government Operations

Prescription Drugs - Price Controls

This bill requires the Health Services Cost Review Commission (HSCRC) to regulate prescription drug prices in the State.

The bill takes effect October 1, 2006.

Fiscal Summary

**State Effect:** HSCRC special fund revenues and expenditures could each increase by \$348,500 in FY 2007. State Employee and Retiree Health and Welfare Benefits Plan (State plan) and Medicaid prescription drug expenditures could decrease if price control measures help reduce drug costs in the State. Future year expenditures reflect inflation.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	\$0	\$348,500	\$343,000	\$362,800	\$384,000
SF Expenditure	0	348,500	343,000	362,800	384,000
GF/SF/FF Exp.	0	(-)	(-)	(-)	(-)
Net Effect	\$0	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local jurisdiction prescription drug expenditures could decrease if price control measures help reduce drug costs in the State.

**Small Business Effect:** Minimal.

Analysis

**Bill Summary:** Before a pharmaceutical drug manufacturer may increase the price on a prescription drug sold in the State, the manufacturer must obtain approval from HSCRC.

HSCRC must review the proposed price increase and approve or disapprove the increase within 90 days. HSCRC must provide the manufacturer with an opportunity for a hearing.

A manufacturer must provide HSCRC with following information: (1) the identity of the prescription drug; (2) the price at which the prescription drug is being or has been sold in any market in the State and elsewhere; (3) the costs of making and marketing the drug; (4) the prices at which the drug and other prescription drugs in the same therapeutic class have been sold in other states and other countries; (5) changes in the U.S. consumer price index; and (6) any other relevant factors. If HSCRC requires a manufacturer to do so, it must provide HSCRC with information regarding the identity of distributors in the State, the manufacturer's revenue from drug sales in the State, and its research and development costs for prescription drugs. Any information provided to HSCRC is deemed confidential.

HSCRC must assess and collect user fees on manufacturers selling prescription drugs in the State.

Beginning January 1, 2007, HSCRC must report annually to the Governor and the General Assembly on drug price increases and research and development costs as they relate to a manufacturer's total expenditures.

**Current Law:** There are no price controls on the cost of prescription drugs in the State. HSCRC sets hospital rates.

**Background:** Legislation has been introduced in three states (Georgia, Oklahoma, and West Virginia) that would set price controls by establishing their own pricing schedule of maximum manufacturer prices. Only West Virginia has enacted price control legislation, which was signed into law in April 2004. The West Virginia Pharmaceutical Availability and Affordability Act of 2004 contains numerous prescription drug cost containment and access provisions, including price controls.

The Act establishes a Pharmaceutical Cost Management Council that is charged with establishing a pricing schedule. The new law gives pharmaceutical companies the opportunity to request a waiver from the pricing schedule for a particular drug, if the manufacturer can justify the need for the higher price. The justification must be exclusive of all marketing and advertising costs.

**State Fiscal Effect:** Special fund expenditures could increase by an estimated \$348,549 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one deputy director and four ratesetters to establish and

administer a prescription drug rate setting system. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$311,192
Operating Expenses	<u>37,357</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$348,549</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Special fund revenues would increase by the same amount (\$348,549) beginning in fiscal 2007 because HSCRC would impose an assessment on prescription drug manufacturers in an amount sufficient to cover HSCRC expenditures.

Prescription drug costs are currently increasing by 15.4% annually. Depending on the types of price controls implemented by HSCRC, annual drug costs in the State plan and Medicaid program could either increase at a lower rate, or even decrease. There are insufficient data at this time to reliably estimate any decrease. Medicaid expenditures are 50% general funds, 50% federal funds. State plan expenditures assume a fund mix of 60% general funds, 20% federal funds, and 20% special funds; and 20% of expenditures are reimbursable through employee contributions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** National Conference of State Legislatures, Department of Health and Mental Hygiene (Board of Pharmacy, Health Services Cost Review Commission), Department of Legislative Services

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