HOUSE COMMITTEE ON APPROPRIATIONS
2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 721   **PRINTER'S NO:** 800   **PRIME SPONSOR:** Solobay

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Expenditure Increase/(Decrease):		
General Fund	See Analysis	See Analysis

OVERVIEW:

House Bill 721 creates a freestanding act to be known as the Prescription Drug Redistribution Act. The bill requires health care and governmental correctional facilities to return prescription drugs that were dispensed to a patient but have not been used to the licensed pharmacy of origin, for repackaging and redistribution. Only those drugs that are sealed in individually packaged units or in single-dose, sealed containers would be returned for repackaging and redistribution.

House Bill 721 also provides that a fee of not more than 15 percent of the maximum wholesale price plus a crediting fee to the licensed pharmacy of origin to be paid by the facility receiving the drugs and also provides for limitation of liability for pharmaceutical manufacturers.

Regulations shall be promulgated by the Department of Health, Department of Corrections and the State Board of Pharmacy in order to carry out the provisions of this act.

The act shall take effect in 60 days.

ANALYSIS:

Enactment of this legislation would impact Medical Assistance expenditures as explained below.

Under current law and practice, when an institution, such as a nursing home, participating in the Medical Assistance (MA) program returns a prescription drug to a pharmacy, that pharmacy then reimburses the MA program for the payment already made and restocks the drug for redistribution.

Under House Bill 721, the facility would have to pay the pharmacy a return fee plus a crediting fee, for the prescription drug being returned. In order to recoup this fee, the facility may pass these costs to the MA program and/or the constituent.

Currently under the MA program, hospitals are paid based on the diagnosis related group (DRG), which is related to the recipient's condition. Prescriptions are included in the DRG and not billed separately. Under House Bill 721, a hospital would have to the pay the pharmacy a return fee plus crediting fee for any prescription returned. This would impose an additional cost to the hospital which could result in that hospital requesting reimbursement from the MA program.

Also under current law and practice, Intermediate Care Facilities for the Mentally Retarded (ICF/MR) are paid on a per diem basis and the cost of prescription drugs is included in the per diem. If an ICF/MR is using a pharmacy to provide prescription drugs, under House Bill 721, the facility would have to the pay the pharmacy a return fee plus crediting fee for any prescription returned. Like a hospital, an ICF/MR may in turn request reimbursement from the MA program.

House Bill 721 would not impact the Department of Corrections because they contract with outside pharmacies to provide prescription drugs in state correctional facilities. There are no pharmacies located on the premises of any state correctional facility.

Likewise, the bill would not apply to skilled nursing facilities or personal care homes that do not have a pharmacy located on the premises. These facilities generally contract with an outside pharmacy to provide services.

Lastly, the Department of State indicates that there may be an increased workload for the State Board of Pharmacy and its legal counsel as a result of this legislation. The Board is funded through the imposition of various fees deposited into the Professional Licensure Augmentation Account.

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