CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: S.216____ Name of Bill: An act relating to prescription drug formularies_____

Agency/ Dept: AOA Author of Bill Review: Jordan Keene/Robin Lunge

Date of Bill Review:_6/13/2016_ Related Bills and Key Players : Rx manufacturers; insurers; HCA; other consumer groups & disease groups

Status of Bill: (check one): _____Upon Introduction _____ As passed by 1st body __X__As passed by both

Recommended Position:

__C___Support _____Oppose _____Remain Neutral _____Support with modifications identified in #8 below

Analysis of Bill

***1*. Summary of bill and issue it addresses.**
This bill has a number of unrelated provisions related to prescription drug issues.
Sec. 1 Findings related to Rx Price Transparency

Sec. 2 Rx cost Transparency
GMCB & DVHA shall identify 15 high cost drugs with large price increases. GMCB provides the AG with the list and cost & AG will make it public on their website. AG requires the manufacturer to justify the increase. AG will report to the legislature. AG has enforcement authority.

Sec. 3 Rx formulary - rules
By 1/1/17, DFR shall do rules to require health insurance plans to make information about their prescription drug formularies available to enrollees, potential enrollees, and health care providers – only for VHC plans.

Sec. 4 340B Dispensing Fees
Reduces the 340B dispensing fee for hospitals from $15 to $4.50
Doesn't apply to FQHCs or Planned Parenthood

Sec. 5 340B Report
Requires DVHA to do a report on other states 340b programs by March 15, 2017

Sec. 6 Out of Pocket Rx Drug Limits; 2018 Pilot
This section is the Administration's request to find a solution to a conflict between the state's maximum out of pocket limit for drugs and the ACA insurance plan requirements, such as "metal" levels. DHVA with AOA support will use an existing advisory group (described in the

language) to develop new bronze plan designs. DVHA will ensure there remains bronze plans with the Rx max in place. Allows GMCB to approve plans that don't meet the state statutory requirement to have the Rx max.
Requires the insurers to notify those in bronze plans who hit the Rx max to ensure they get the plan with an Rx max.
AOA with Leg Council will determine if there is the possibility to get a 1332 waiver to keep the state statute in place and will report by October 1 2017. If it is possible to get a waiver, AOA will file it by 3/1/17. NOTE: THERE IS NO MONEY TO DEVELOP A WAIVER SO THIS IS A BAA ISSUE.
DVHA will report on the outcome of the process by 2/15/17.
DVHA will report trends in bronze plans and any recommendations of the advisory group by 2/1/18.

2. **Is there a need for this bill?**

The conflicting state and federal laws relating to VHC plan design is a problem and this bill allows us to craft solutions for 2018 for one year.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**

   Waiver on Rx Max – In order to develop a waiver, there will need to be a BAA appropriation. This depends on the determination of if it is possible to get a waiver so more info will be available by October.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

   DFR - Requires DFR to format prescription drug information and to ensure health insurers are providing accurate prescription drug information for beneficiaries.

   DVHA - Allocate resources to study how Medicaid program can use 340B to lower state spending for drugs and to change the dispensing fee.
   -340b dispensing fee change will have fiscal implications, but it is difficult to predict the fiscal impacts. There could be modest savings.
   - Allocate resources to figure out an approach for the prescription drug out of pocket spending, but this is already an annual process

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (f*or example, public, municipalities, organizations, business, regulated entities, etc)*

   340B – Hospitals using this program now will see their dispensing fee reduced. This may result in some carving out Medicaid & not participating for this payer. No impacts on FQHCs or Planned Parenthood.
   Transparency One Vermont generic drug/biologic manufacturer may be impacted if the drugs they produce have a large price increase in one year, although this is unlikely since only 15 drugs are chosen by GMCB/DVHA.

Rx MOOP Consumers with low out of pocket drug costs, but high medical costs may be able to access better bronze plan designs. Those with high Rx costs will continue to have a bronze plan available with a max Rx out of pocket limit.

6. **Other Stakeholders:**

   6.1 Who else is likely to support the proposal and why?
   Vermonters enrolled in health insurance, insurance carriers, HCA

   6.2 Who else is likely to oppose the proposal and why?
   Pharmaceutical Retailers and Manufacturers Association, PhRMA; Myland Pharmaceuticals; Disease groups who don't understand plan design

7. **Rationale for recommendation:** *Justify recommendation stated above.*
   Administration would like to find a fix for the Rx MOOP issue.

8. **Specific modifications that would be needed to recommend support of this bill***: Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

9. **Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many?**
   No

Secretary/Commissioner has reviewed this document: _____ Date: _____