North Dakota SB 2378 Will Cost the State Over $600 Million In Increased Prescription Drug Costs

The core mission of pharmacy benefit managers (PBMs) is to reduce prescription drug costs for health plan sponsors so that consumers have affordable access to needed prescription drugs. PBMs offer a variety of services to their health-plan-sponsor clients and patients that improve prescription adherence, reduce medication errors, and manage drug costs.

The proposed North Dakota legislation will seriously undermine the ability of PBMs to control drug costs, and as a result drug spending in North Dakota will soar. Although some of the provisions are subject to interpretation, enacting just the bill provisions discussed below could cost the state of North Dakota **$50 million in excess drug spending** in the first year alone, and **$607 million** over the next 10 years.

SB 2378 would restrict the use of preferred pharmacy networks and mail-order pharmacies.

- PBMs require pharmacies to compete on service, price, convenience, and quality to be included in preferred networks. Pharmacies that agree to participate in such arrangements are designated as 'preferred' and become members of a preferred pharmacy network. These types of networks have gained traction among plan sponsors and deliver tangible out-of-pocket savings for patients.
- Nearly 80% of employers believe that mail-order specialty pharmacies are the lowest-cost site of service compared with retail community pharmacies and other options.[1] This bill guts the ability for health plans and PBMs to create preferred pharmacy networks for plans by mandating an "any willing provider" requirement. According to the FTC and academic analysis, this type of mandate leads to less competition and higher prices for consumer.[2]

SB 2378 would ban white bagging

- Under a white bagging model, a specialty pharmacy ships the drug for a given patient directly to the health care provider rather than the provider buying the drug and billing the insurer. The cost of these drugs through specialty pharmacies is lower than through the traditional "buy-and-bill" model.
- Legislation that would bar health insurers from implementing white bagging will seriously undermine the ability of health plans and PBMs to manage their medical specialty pharmacy expenditures, and as a result, drug spending in North Dakota would soar. Use of white bagging has real benefits for patients, providers, and health plan sponsors.

Projected 10-Year Increases in Prescription Drug Spending In North Dakota, 2023–2032 (Millions)

	Self-Insured Group Market	Fully-Insured Group Market	Individual Direct Purchase Market	Medicaid	**Total**
Restrict preferred pharmacy networks and mail-order pharmacies[3]	$136	$132	$37	$8	$313
Restrict White Bagging	$116	$112	$31	$35	$294
Maximum Costs – Two Provisions	**$252**	**$244**	**$68**	**$43**	**$607**

Methodology: The methodology used to create these cost projections for adopting pharmacy restrictions was that used by Visante in the January 2023 paper "Increased Costs Associated With Proposed State Legislation Impacting PBM Tools." The methodology used to create the white bagging cost projections is described in "Appendix: White Bagging Dispensing."

1. Trends in Specialty Drug Benefits, PBMI, 2018
2. "Contract year 2015 policy and technical changes to the Medicare advantage and the Medicare prescription drug benefit programs," FTC letter to CMS, Mar. 7, 2014.
3. Note: North Dakota may already use some form of AWP rules. Estimated cost increases are based on comparing "with vs without AWP."

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