

February 15, 2019

The Honorable Gene Suellentrop, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 441-E
Topeka, Kansas 66612

Dear Senator Suellentrop:

SUBJECT: Fiscal Note for SB 93 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 93 is respectfully submitted to your committee.

SB 93 would require health insurance plans to consider available recognized evidence-based and peer-reviewed clinical practice guidelines when establishing a step therapy protocol. Step therapy protocol is defined as a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, including self-administered and physician-administered drugs, are medically appropriate for a particular patient and are covered under a health insurance plan.

The bill would require a clear, readily accessible and convenient process to request a step therapy exception and outlines when a health insurance plan would grant an override to the step therapy protocol. The patient or prescriber could appeal the denial of a step therapy exception. A health insurance plan could require a patient to try a generic equivalent drug prior to providing coverage for equivalent branded prescription drugs. The bill would not mandate coverage for prescription medication if the coverage is not already a covered benefit by the patient's health insurance plan.

The Insurance Department indicates that the provisions of SB 93 are not clear as to whether step therapy denials qualify for external review. The bill would require carriers to provide an affirmative notice to policyholders of a right to external review of adverse decisions as well as declare those decisions to be "final adverse determinations" for the purpose of the external review statute. The Department assumes there would be a modest increase in the number of external reviews which it would need to conduct as a result of the bill. The Department's cost for external review of prescription drug denial ranges from \$250 to \$500 per review. As an example, if the

Department receives four new review requests per month as a result of the bill, it would experience a potential net cost increase of \$500 to \$1,000 per month. However, the cost is directly based on the number of new review requests, and the Department has no method of determining that number. Therefore, a precise fiscal effect cannot be determined. In addition, the Department recoups approximately 61.0 percent of the cost of reviews from the insurance carrier when the company's denial is overturned through the external review process. SB 93 would not have a fiscal effect on the Kansas Department of Health and Environment, Board of Pharmacy, the Kansas Association of Counties or the League of Kansas Municipalities. Any fiscal effect associated with SB 93 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large, stylized initial "L".

Larry L. Campbell
Director of the Budget