

# Multiple Agency Fiscal Note Summary

|                             |  |
|-----------------------------|--|
| <b>Bill Number:</b> 5300 SB | <b>Title:</b> Behavioral health continuity |
|-----------------------------|--|

## Estimated Cash Receipts

| Agency Name                            | 2023-25  |             |       | 2025-27  |             |       | 2027-29  |             |       |
|--|--|-------------|-------|----------|-------------|-------|----------|-------------|-------|
|  | GF-State   | NGF-Outlook | Total | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total |
| Washington State Health Care Authority | Non-zero but indeterminate cost and/or savings. Please see discussion. |             |       |          |             |       |          |             |       |
| <b>Total \$</b>                        | 0  | 0           | 0     | 0        | 0           | 0     | 0        | 0           | 0     |

## Estimated Operating Expenditures

| Agency Name                            | 2023-25  |          |             |        | 2025-27 |          |             |        | 2027-29 |          |             |        |
|--|--|----------|-------------|--------|---------|----------|-------------|--------|---------|----------|-------------|--------|
|  | FTEs   | GF-State | NGF-Outlook | Total  | FTEs    | GF-State | NGF-Outlook | Total  | FTEs    | GF-State | NGF-Outlook | Total  |
| Washington State Health Care Authority | Non-zero but indeterminate cost and/or savings. Please see discussion. |          |             |        |         |          |             |        |         |          |             |        |
| Office of Insurance Commissioner       | .2   | 0        | 0           | 54,673 | .1      | 0        | 0           | 17,408 | .1      | 0        | 0           | 17,408 |
| <b>Total \$</b>                        | 0.2  | 0        | 0           | 54,673 | 0.1     | 0        | 0           | 17,408 | 0.1     | 0        | 0           | 17,408 |

## Estimated Capital Budget Expenditures

| Agency Name                            | 2023-25 |       |       | 2025-27 |       |       | 2027-29 |       |       |
|--|---------|-------|-------|---------|-------|-------|---------|-------|-------|
|  | FTEs    | Bonds | Total | FTEs    | Bonds | Total | FTEs    | Bonds | Total |
| Washington State Health Care Authority | .0      | 0     | 0     | .0      | 0     | 0     | .0      | 0     | 0     |
| Office of Insurance Commissioner       | .0      | 0     | 0     | .0      | 0     | 0     | .0      | 0     | 0     |
| <b>Total \$</b>                        | 0.0     | 0     | 0     | 0.0     | 0     | 0     | 0.0     | 0     | 0     |

## Estimated Capital Budget Breakout

NONE

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**Phone:**

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**Date Published:**

Final 2/ 7/2023

# Individual State Agency Fiscal Note

|                             |  |   |
|-----------------------------|--|---|
| <b>Bill Number:</b> 5300 SB | <b>Title:</b> Behavioral health continuity | <b>Agency:</b> 107-Washington State Health Care Authority |
|-----------------------------|--|---|

## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

**Estimated Operating Expenditures from:**

**Non-zero but indeterminate cost and/or savings. Please see discussion.**

**Estimated Capital Budget Impact:**

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|                                     |                       |                  |
|-------------------------------------|-----------------------|------------------|
| Legislative Contact: Greg Attanasio | Phone: 360-786-7410   | Date: 01/18/2023 |
| Agency Preparation: Sue Eckroth     | Phone: 360-725-1899   | Date: 02/03/2023 |
| Agency Approval: SUMAN MAJUMDAR     | Phone: 360-725-1319   | Date: 02/03/2023 |
| OFM Review: Jason Brown             | Phone: (360) 742-7277 | Date: 02/07/2023 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

See attached narrative.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

See attached narrative.

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

See attached narrative.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

### III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

**III. C - Operating FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE

### IV. C - Capital Budget Breakout

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# HCA Fiscal Note

Bill Number: 5300 SB

HCA Request #: 23-049

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

This bill amends language in RCW 69.41.190, which provides exceptions to preferred drug substitution and adds a new section under RCW 48.43 (Insurance Reform) limiting when a health carrier may require substitution of a non-preferred drug.

Section 1 of this bill adds a new section to 48.43 (Insurance Reform) that requires health plans that include prescription drug coverage issued or renewed on or after January 1, 2024 may not require the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase an enrollee's cost-sharing obligation mid-plan year for the drug, if the prescription is for an initial or subsequent refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat mental illness, the enrollee is medically stable on the drug, and is participating provider continues to prescribe the drug.

Nothing in this section of this bill prohibits the following:

- A carrier from requiring generic substitution during the current plan year.
- The carrier from adding new drugs to its formulary during the current plan year.
- The carrier from removing a drug from its formulary for safety concerns, recall, removal from the market, or medical evidence indicating not effect of the drug.
- A participating provider from prescribing a different drug that is covered by the plan and is medically appropriate.

Section 2 of this bill amends RCW 69.41.190 (Preferred drug substitution—Exceptions—Notice—Limited restrictions) to include language that allows any pharmacist filling a prescription filling a prescription under a state purchased health care program, as defined in RCW 41.05.011, to substitute a preferred drugs for any nonpreferred drug for an initial or subsequent refill of antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat serious mental illness.

Section 3 of this bill states effective date of January 1, 2024.

### II. B - Cash Receipts Impact

None.

### II. C – Expenditures

The fiscal impact is indeterminate for the Washington State Health Care Authority (HCA).

#### Apple Health

The fiscal impact is indeterminate.

This bill adds exceptions to the rules related to substitution of a preferred drug for any nonpreferred drug within a given therapeutic class to allow pharmacists to not make such substitution when the prescription is for “an initial or subsequent” refill for specified categories of drugs. The bill also adds drugs prescribed to treat “serious mental illness” to the categories of drugs for which substitution of preferred drugs is proposed not to be required.

## HCA Fiscal Note

Bill Number: 5300 SB

HCA Request #: 23-049

If it is assumed that the “initial and subsequent” refill refers to refills only, and does not include the original prescription fill, then there are no anticipated changes to coverage and no service-related impact is expected to result from this bill. However, if ‘initial’ includes the original prescription, then the proposed policy can potentially change the utilization of preferred versus non-preferred drugs. While this may result in a fiscal impact for HCA, determining such impact would require additional clarity on the bill language.

If it is assumed that all drugs to treat “serious mental illness” are already part of the categories of drugs for which non-preferred to preferred substitution is not required under current law (RCW 69.41.190), then no fiscal impact is expected. However, serious mental illness can only be defined based on diagnostic codes. Currently, there is no way to determine if the usage of a drug is for a serious mental illness, especially when being used off-label, without requiring either a diagnosis on the prescription record or a prior authorization for the drug. Without knowing the extent to which off-label utilization would qualify under the proposed policy, the fiscal impact cannot be determined.

### **Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) Programs**

The fiscal impact is indeterminate.

Section 1 of this bill adds a new section to 48.43 that requires health plans that include prescription drug coverage issued or renewed on or after January 1, 2024 may not require the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase an enrollee’s cost-sharing obligation mid-plan year for the drug, if the prescription is for an initial or subsequent refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat serious mental illness, the enrollee is medically stable on the drug, and is participating provider continues to prescribe the drug.

Section 2 of this bill amends RCW 69.41.190 to include language that state purchased health care as defined in RCW 41.05.011, which includes the PEBB and SEBB programs, that allows any pharmacist filling a prescription to substitute a preferred drug for any nonpreferred drug for an initial or subsequent refill of antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat serious mental illness.

RCW 41.05 governs the self-insured Uniform Medical Plans (UMP), which are offered by the Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB) programs. RCW 48.43 governs the fully insured health plans offered by the PEBB and SEBB programs. By limiting changes in the cost-sharing, the plan will bear any increased costs associated with a medication. HCA is uncertain how many members would be impacted by this update, and the costs cannot be quantified.

UMP is compliant with the existing statute in RCW 69.41.190. The addition of the serious mental illness drugs will have a minor but indeterminate impact due to the unknown behavior of patients enrolling in UMP who are on non-preferred drugs for these conditions. The serious mental illness drugs are often less costly than specialty drugs that usually drive pharmacy spend and preferred drugs have a lower

## HCA Fiscal Note

Bill Number: 5300 SB

HCA Request #: 23-049

cost-share than non-preferred drugs, which drives member behavior, and that is why HCA anticipates this may have a minor but indeterminate fiscal impact.

Implementation of this bill could result in increased premiums for the self-insured and fully insured medical plans which may impact the state medical benefit contribution and employee contributions for health benefits.

### **Part IV: Capital Budget Impact**

None.

### **Part V: New Rule Making Required**

None.



# Individual State Agency Fiscal Note

|                             |  |   |
|-----------------------------|--|---|
| <b>Bill Number:</b> 5300 SB | <b>Title:</b> Behavioral health continuity | <b>Agency:</b> 160-Office of Insurance Commissioner |
|-----------------------------|--|---|

## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

|  | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--|---------|---------|---------|---------|---------|
| FTE Staff Years  | 0.3     | 0.1     | 0.2     | 0.1     | 0.1     |
| <b>Account</b>   |         |         |         |         |         |
| Insurance Commissioners Regulatory Account-State 138-1 | 45,969  | 8,704   | 54,673  | 17,408  | 17,408  |
| <b>Total \$</b>  | 45,969  | 8,704   | 54,673  | 17,408  | 17,408  |

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|                                     |                       |                  |
|-------------------------------------|-----------------------|------------------|
| Legislative Contact: Greg Attanasio | Phone: 360-786-7410   | Date: 01/18/2023 |
| Agency Preparation: Jane Beyer      | Phone: 360-725-7043   | Date: 01/23/2023 |
| Agency Approval: Michael Wood       | Phone: 360-725-7007   | Date: 01/23/2023 |
| OFM Review: Jason Brown             | Phone: (360) 742-7277 | Date: 01/26/2023 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Section 1(1) prohibits, for health plans that include prescription drug coverage issued or renewed on or after January 1, 2024, a health carrier from requiring the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase the cost-sharing obligation mid-plan year, if the prescription is for an initial or subsequent refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat a serious mental illness, the enrollee is medically stable on the drug, and a participating provider continues to prescribe the drug.

Section 1(3) defines “serious mental illness”.

### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

### II. C - Expenditures

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

Section 1(1) prohibits, for health plans that include prescription drug coverage issued or renewed on or after January 1, 2024, a health carrier from requiring the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class, or increase the cost-sharing obligation mid-plan year, if the prescription is for an initial or subsequent refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to treat a serious mental illness, the enrollee is medically stable on the drug, and a participating provider continues to prescribe the drug.

Section 1(3) defines “serious mental illness”.

Section 1 will require additional review of health plan form filings to ensure plans have updated the change in their prescription drug benefit language. The Office of Insurance Commissioner (OIC) will require one-time costs, in FY2024, of 6 hours of a Functional Program Analyst 4 to update filing review standards and speed-to-market tools, update checklist documents and filing instructions, train staff, and educate issuers. The OIC receives approximately 312 health plan form filings each year and assumes the new review standards will result in an additional 15 minutes of review per form filing in FY2024 and an additional 5 minutes of review per form filing in FY2025 and thereafter requiring 78 hours (312 form filings x 15 minutes) of a Functional Program Analyst 3 (FPA3) in FY2024 and 26 hours (312 form filings x 5 minutes) of a FPA3 in FY2025 and thereafter.

Section 1 will drive additional written inquiries, calls, and complaints to the OIC. Based on OIC’s experience related to implementation of reproductive and birth control rights, the OIC expects to receive an additional 55 informational cases and 5 complaints relating to prescriptions for behavioral health conditions each year. For purposes of this fiscal note, it is assumed that informational cases will take 5 minutes per case and complaint cases will take 3.25 hours per case requiring a total of 21 hours (55 info cases x 5 minutes + 5 complaint cases x 3.25 hours) of a Functional Program Analyst 3 each year beginning in FY2024.

The provisions in Section 1 will lead to an increase in enforcement actions. The OIC anticipates an average of one additional enforcement action per year to address allegations specific to coverage for prescription drugs for behavioral health conditions. Enforcement actions require the equivalent of approximately 40 hours per case requiring 40 hours (1 case x 40 hours) of an Insurance Enforcement Specialist beginning in FY2024.

'Normal' rulemaking will be required, in FY2024, to make revisions and additions to multiple rules under WAC 284-43 to add language about the requirements under Section 1.

Ongoing Costs:

Salary, benefits and associated costs for .03 FTE Functional Program Analyst 3 and .03 FTE Insurance Enforcement Specialist.

**Part III: Expenditure Detail**

**III. A - Operating Budget Expenditures**

| Account         | Account Title                              | Type  | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|-----------------|--|-------|---------|---------|---------|---------|---------|
| 138-1           | Insurance Commissioners Regulatory Account | State | 45,969  | 8,704   | 54,673  | 17,408  | 17,408  |
| <b>Total \$</b> |  |       | 45,969  | 8,704   | 54,673  | 17,408  | 17,408  |

**III. B - Expenditures by Object Or Purpose**

|                                      | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years                      | 0.3     | 0.1     | 0.2     | 0.1     | 0.1     |
| A-Salaries and Wages                 | 27,694  | 5,183   | 32,877  | 10,366  | 10,366  |
| B-Employee Benefits                  | 9,081   | 1,780   | 10,861  | 3,560   | 3,560   |
| C-Professional Service Contracts     |         |         |         |         |         |
| E-Goods and Other Services           | 9,194   | 1,741   | 10,935  | 3,482   | 3,482   |
| G-Travel                             |         |         |         |         |         |
| J-Capital Outlays                    |         |         |         |         |         |
| M-Inter Agency/Fund Transfers        |         |         |         |         |         |
| N-Grants, Benefits & Client Services |         |         |         |         |         |
| P-Debt Service                       |         |         |         |         |         |
| S-Interagency Reimbursements         |         |         |         |         |         |
| T-Intra-Agency Reimbursements        |         |         |         |         |         |
| 9-                                   |         |         |         |         |         |
| <b>Total \$</b>                      | 45,969  | 8,704   | 54,673  | 17,408  | 17,408  |

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification               | Salary  | FY 2024 | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|----------------------------------|---------|---------|---------|---------|---------|---------|
| Functional Program Analyst 3     | 73,260  | 0.1     | 0.0     | 0.1     | 0.0     | 0.0     |
| Functional Program Analyst 4     | 80,952  | 0.1     |         | 0.0     |         |         |
| Insurance Enforcement Specialist | 99,516  | 0.0     | 0.0     | 0.0     | 0.0     | 0.0     |
| Senior Policy Analyst            | 108,432 | 0.2     |         | 0.1     |         |         |
| <b>Total FTEs</b>                |         | 0.3     | 0.1     | 0.2     | 0.1     | 0.1     |

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**IV. D - Capital FTE Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

**Part V: New Rule Making Required**

*Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.*

‘Normal’ rulemaking will be required, in FY2024, to make revisions and additions to multiple rules under WAC 284-43 to add language about the requirements under Section 1.