

# Louisiana SB 218 Will Cost the State \$2.5 Billion 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 Louisiana legislation will seriously undermine the ability of PBMs to control drug costs, and as a result drug spending in Louisiana will soar. Although some of the provisions are subject to interpretation, enacting just the bill provisions discussed below could cost the state of Louisiana **\$200 million in excess drug spending** in the first year alone, and **\$2.5 billion** over the next 10 years.

## *SB 218 would require a PBM to act as a fiduciary*

Requiring PBMs to become a fiduciary would limit the use of cost-saving PBM tools, increase the costs of liability insurance, and increase overall costs. According to the Department of Labor, PBMs “who have no power to make any decisions as to plan policy, interpretations, practices or procedures, but who perform [certain] administrative functions for an employee benefit plan...are not fiduciaries of the plan.”<sup>1</sup> Likewise, PBMs have no “discretionary authority” over plan assets as defined by DOL, which is an essential threshold requirement for fiduciary status under federal law.

Imposition of a fiduciary mandate would create a conflict between PBMs’ contractual obligations to their clients and the fiduciary duty to act “solely in the interest of plan participants.” Fiduciary mandates would subject PBMs to broader legal liabilities than under current law because they would transform an arm’s length contractual relationship into one where one party is responsible for assets that belong to another, such as a trustee relationship. Increased legal risk could result in PBMs needing to purchase additional liability insurance. The added cost of this insurance would then drive prescription drug benefit costs higher for both PBM clients and the individuals enrolled in their plans.

## Projected 10-Year Increases in Prescription Drug Spending In Louisiana, 2022–2031 (Billions)

	Self-Insured Group Market	Fully Insured Group Market	Individual Direct Purchase Market	Managed Medicaid	Total
Adopting Fiduciary Mandate	\$0.85	\$0.67	\$0.18	\$0.77	\$2.5

**Methodology:** The methodology used to create these cost projections was that used by Visante in the April 2020 paper “[Increased Costs Associated With Proposed State Legislation Impacting PBM Tools](#).”

1. 29 CFR 2509.75-8 - Questions and answers relating to fiduciary responsibility under the Employee Retirement Income Security Act of 1974.