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SENATE RESOLUTION

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WHEREAS, The Medicaid program in Illinois has an immense and growing impact, both in terms of taxpayer dollars and in the effect it has on citizens across the State; and

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WHEREAS, State resources for healthcare services are scarce, and many healthcare providers, including pharmacists, are discontinuing services or ceasing operation, leading to a profoundly detrimental impact on our communities and the expansion of pharmacy deserts; and

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WHEREAS, Enrollment under the Illinois Department of Healthcare and Family Services' Medical Assistance Programs (Medicaid) exceeds three million; and

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WHEREAS, A sizable portion of the Medicaid population is currently enrolled, often mandatorily, in Managed Care Organizations (MCOs), making outlays to MCOS, measured in billions of dollars, one of the largest resources used in the State; and

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WHEREAS, 12,500 licensed pharmacists in Illinois provide medications and patient care services to assure the rational and safe use of all medications; and

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1           WHEREAS, Pharmacists, as front-line health care providers,  
2 answered the call to aid during the ongoing COVID-19 pandemic  
3 and have taken on additional responsibilities of care and  
4 practice in order to best serve the public health needs of the  
5 citizens of the State of Illinois; and

6           WHEREAS, A significant number of pharmacists respond to  
7 the charge of their community to establish a pharmacy to  
8 provide access to care for their patients; and

9           WHEREAS, Pharmacies generate additional taxable revenue  
10 for the State and yet are continuously under-reimbursed below  
11 their cost on medications dispensed to meet their patient's  
12 needs; and

13           WHEREAS, A number of states have performed audits on  
14 managed Medicaid programs and the utilization of tax dollars,  
15 and states, such as Ohio, have found over \$208 million in  
16 collected fees to the benefit of pharmacy benefit managers in  
17 a one-year period, in addition to other operational and  
18 business practice concerns; and

19           WHEREAS, Attorneys General, Auditors General,  
20 Comptrollers, and Insurance Directors have investigated,  
21 fined, or instituted court proceedings into the business  
22 practices of Pharmacy Benefit Managers (PBMs) in the states of

1 Arkansas, California, Colorado, Connecticut, Delaware,  
2 Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas,  
3 Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan,  
4 Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico,  
5 New York, North Carolina, Ohio, Oklahoma, Oregon,  
6 Pennsylvania, Texas, Utah, Vermont, Virginia, Washington, West  
7 Virginia, and Wyoming, and in the District of Columbia; and

8 WHEREAS, The landmark December 2020 United States Supreme  
9 Court decision in Rutledge v. PCMA brought PBM operational and  
10 business practices and especially the reimbursement  
11 methodologies for pharmaceuticals into further question,  
12 including Chief Justice Roberts calling their business  
13 practices 'byzantine'; and

14 WHEREAS, There has been little information disseminated to  
15 the General Assembly in terms of how State resources are being  
16 spent on MCOs and on the overall healthcare outcomes for  
17 individuals enrolled in these MCOs; and

18 WHEREAS, It is paramount that the General Assembly stay  
19 engaged in Medicaid funding and corresponding healthcare  
20 outcome issues and be prepared to make legislative and  
21 administrative recommendations; therefore, be it

22 RESOLVED, BY THE SENATE OF THE ONE HUNDRED SECOND GENERAL

1 ASSEMBLY OF THE STATE OF ILLINOIS, that the Auditor General,  
2 with the assistance of the Comptroller as necessary, is  
3 directed to conduct an audit of Medicaid MCOs, including  
4 contracted and previously contracted pharmacy benefit  
5 managers, which includes a comparison of State expenditures  
6 between MCOs and the Medicaid fee-for-service program; and be  
7 it further

8 RESOLVED, That the audit shall examine pharmacy benefits  
9 managers that contract with managed care organizations for the  
10 purpose of determining the amount of State and federal funds  
11 used to reimburse managed care organizations, pharmacy  
12 benefits managers, and pharmacies and the dollar amount of  
13 funds received by each respective party for fiscal year 2017,  
14 2018, 2019, 2020, and 2021 with respect to the following  
15 issues:

16 (1) The amount paid to a pharmacy provider per each  
17 individual claim, including ingredient cost and the amount  
18 of any copayment deducted from the payment;

19 (2) The transmission fees charged by a pharmacy  
20 benefit manager to a pharmacy provider;

21 (3) The amount charged by the pharmacy benefit manager  
22 to the medical assistance managed care organization per  
23 claim, including all administrative fees and processing  
24 charges associated with the claim;

25 (4) Rebates paid by the pharmacy benefit manager to

1 the managed care organization and any payment from a  
2 pharmaceutical manufacturer to a PBM;

3 (5) The Auditor General shall be provided with access  
4 to the following documents and information by either the  
5 managed care organization, the pharmacy benefits manager,  
6 or the pharmacy:

7 (a) Contracts between the managed care  
8 organization and the pharmacy benefits manager;

9 (b) Contracts between the pharmacy benefits  
10 manager and pharmacies receiving reimbursement;

11 (c) Full encounter claims data showing the  
12 amount the managed care organization paid the pharmacy  
13 benefits manager;

14 (d) Full encounter claims data showing the  
15 amount that was paid to the pharmacies by the pharmacy  
16 benefits managers;

17 (6) Information requested from the pharmacy benefits  
18 manager or the pharmacy via questionnaire by the Auditor  
19 General; and

20 (7) Any additional information or data required by the  
21 Auditor General or Comptroller to determine the actual  
22 reimbursement to the managed care organizations, pharmacy  
23 benefits managers, and pharmacies; and be it further

24 RESOLVED, That the audit shall further examine  
25 reimbursement issues for Medicaid MCOs, including contracted

1 pharmacy benefit managers, for fiscal years 2017, 2018, 2019,  
2 2020, and 2021 and should:

3 (1) Provide an overview of the distribution of and  
4 payment for pharmaceuticals in the medical assistance  
5 managed care program;

6 (2) Review the reimbursement practices of pharmacy  
7 benefit managers to pharmacies, including out-of-state  
8 pharmacies and pharmacies affiliated with pharmacy benefit  
9 managers;

10 (3) Review the reimbursement practices of managed care  
11 organizations to pharmacy benefit managers;

12 (4) Investigate and compare the reimbursement rates  
13 paid by pharmacy benefit managers to independent  
14 pharmacies and to chain pharmacies and to out-of-state  
15 pharmacies and to pharmacies affiliated with pharmacy  
16 benefit managers;

17 (5) Study the best practices and laws adopted by other  
18 states to address concerns with pharmacy reimbursement  
19 practices of pharmacy benefit managers; and

20 (6) Review any other data the Auditor General or  
21 Comptroller deems necessary to complete the audit; and be  
22 it further

23 RESOLVED, That the audit shall further examine  
24 reimbursement with a comparison, in aggregate on both a dollar  
25 level and per prescription basis, of what the Illinois

1 Department of Healthcare and Family Services paid directly  
2 through its Medicaid Fee-For-Service (FFS) program versus what  
3 was charged through the MCO's to the Illinois Department of  
4 Healthcare and Family Services for Medicaid managed care  
5 prescriptions; such a comparison shall include the cost  
6 comparison to the top 200 drugs covered by the Illinois  
7 Medicaid prescription drug benefit FFS program, including all  
8 dispensing and other professional fees paid to Medicaid  
9 pharmacy providers, including comparison to out-of-state and  
10 pharmacies affiliated with pharmacy benefit managers; and be  
11 it further

12 RESOLVED, That the Auditor General shall publish only  
13 aggregate data in the report; any information disclosed or  
14 produced by a pharmacy benefit manager or a medical assistance  
15 managed care organization for the purposes of this audit shall  
16 be confidential; and be it further

17 RESOLVED, That on or before December 1, 2021, the Auditor  
18 General shall provide the results of the audit to the General  
19 Assembly; and be it further

20 RESOLVED, That the Illinois Department of Healthcare and  
21 Family Services and any other State agency having information  
22 relevant to this audit cooperate fully and promptly with the  
23 Auditor General's Office in its conduct; and be it further

1           RESOLVED, That the Auditor General commence this audit as  
2           soon as possible and report his findings and recommendations  
3           upon completion in accordance with the provisions of Section  
4           3-14 of the Illinois State Auditing Act.