

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7117**

**BILL NUMBER:** SB 471

**NOTE PREPARED:** Apr 1, 2013

**BILL AMENDED:**

**SUBJECT:** Prescriptions for Brand Name Drugs.

**FIRST AUTHOR:** Sen. Grooms

**FIRST SPONSOR:** Rep. Davisson

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill permits a health care practitioner to use words of similar meaning instead of the statutory phrase "Brand Medically Necessary" when writing a prescription for a brand name drug when the practitioner does not want the pharmacist to substitute, under certain government programs, a generically equivalent drug product for the brand name drug.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** The fiscal impact of this bill is indeterminate. Additional cost, if any, would be related to the number of Medicaid or CHIP brand-name-intended prescriptions written without the required "brand medically necessary" phrase that are ultimately filled with generic substitutions.

**Background:** Federal law requires that the state is required to determine what certification and procedures are to be used for a physician to indicate that a brand-name drug is medically necessary. This procedure exempts the prescription from the upper payment limit applicable for multiple source drugs. The procedure may not allow for a check-off box on the prescription form and it must be written in the prescriber's own handwriting. A notation like "brand necessary" is allowable.

Medicaid and CHIP are jointly funded by the state and federal governments. The effective state share of Medicaid program expenditures is approximately 33% for most goods and services and approximately 23% for the CHIP program. Medicaid and CHIP medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 67% and 77%, respectively. Administrative expenditures with certain

exceptions are matched at the federal rate of 50%.

**Explanation of State Revenues:** An increase in Medicaid and CHIP use of brand-name drugs could result in additional drug rebates. It is unlikely that the rebate revenue would offset the additional expense resulting from the use of the branded drugs as opposed to the use of lower-cost generically equivalent substitutes.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Family and Social Services Administration, Office of Medicaid Policy and Planning.

**Local Agencies Affected:**

**Information Sources:** FSSA, OMPP.

**Fiscal Analyst:** Kathy Norris, 317-234-1360.