

**Department of Legislative Services**  
 Maryland General Assembly  
 2015 Session

**FISCAL AND POLICY NOTE**

House Bill 534 (Delegate Morhaim)  
 Health and Government Operations

**Health Insurance - Coverage of Brand Name Prescription Drugs for Mental Health Treatment**

This bill requires health insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that limit coverage of a prescription drug prescribed for a mental health disease or condition to a generic drug to provide a procedure for coverage of the brand name drug if the equivalent generic drug (1) has been ineffective in treating the disease or condition of the member or (2) has caused or is likely to cause an adverse reaction or other harm to the member. Carriers may not impose cost sharing requirements for these brand name drugs that are less favorable than those for the equivalent generic drug or require a member to pay the difference in cost between the brand name drug and the lower-cost equivalent generic drug.

The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2015.

**Fiscal Summary**

**State Effect:** To the extent the bill applies to the State Employee and Retiree Health and Welfare Benefits Program (State plan), the Department of Budget and Management (DBM) advises that expenditures increase by \$410,000 in FY 2016 from limitations on brand name drug copayments. Future years reflect annualization, utilization, and inflation. Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) in FY 2016 from the \$125 rate and form filing fee. Review of filings can be handled with existing budgeted MIA resources.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	-	\$0	\$0	\$0	\$0
GF/SF/FF Exp.	\$410,000	\$861,000	\$947,100	\$1,041,800	\$1,146,000
Net Effect	(\$410,000)	(\$861,000)	(\$947,100)	(\$1,041,800)	(\$1,146,000)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Expenditures may increase for some local governments due to decreased enrollee cost sharing for certain prescription drugs.

**Small Business Effect:** The bill does not appear to apply to small group contracts.

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## **Analysis**

**Current Law:** Statute includes 45 mandated health insurance benefits that certain carriers must provide to their enrollees. Carriers that provide coverage for prescription drugs and devices (including coverage provided through a pharmacy benefit manager) and limit coverage to a formulary must establish and implement a procedure by which a member may receive a prescription drug or device that is not in the formulary. A nonformulary prescription drug or device must be covered if, in the judgment of the authorized prescriber, there is no equivalent prescription drug or device in the formulary or an equivalent prescription drug or device in the formulary has been ineffective in treating the disease or condition of the member or has caused or is likely to cause an adverse reaction or other harm to the member.

Carriers that provide coverage for both orally administered cancer chemotherapy and cancer chemotherapy administered intravenously or by injection are prohibited from imposing dollar limits, copayments, deductibles, or coinsurance requirements on coverage for orally administered cancer chemotherapy that are less favorable to an enrollee than those that apply to cancer chemotherapy administered intravenously or by injection.

**State Expenditures:** To the extent the bill applies to the State plan, DBM advises that expenditures increase by approximately \$410,000 in fiscal 2016, which reflects expenditures for the second half of fiscal 2016 only (benefits under the State plan are administered on a calendar year basis).

According to DBM, the bill's prohibition on (1) imposing dollar limits, copayments, deductibles, or coinsurance requirements for certain brand name prescription drugs prescribed for the treatment of a mental health disease or condition that are less favorable to an insured or enrollee than those that apply to coverage for the equivalent generic prescription drug or (2) requiring the member to pay the difference in cost between a brand name and generic drug bars the imposition of brand name and generic copayments. These prohibitions result in lost brand name copayments on prescription medications prescribed for treatment of a mental health disease or condition for State plan enrollees.

Future year State plan expenditures reflect annualization and projected drug trends (increases in direct cost and utilization) of 10% per year. State plan expenditures are split 59% general funds, 30% special funds, and 11% federal funds.

**Local Expenditures:** Local government expenditures (for those that purchase fully insured plans from an insurance company) may increase for some local governments beginning in fiscal 2016 due to increased prescription drug costs to the extent copayments are limited under the bill.

**Additional Comments:** The bill specifies that it applies to an entity that limits its coverage of a prescription drug that is prescribed for the treatment of a mental health disease or condition to a generic drug. However, it is unclear to which plans the bill's requirements specifically apply. The chosen benchmark plan, which establishes the mandates for the individual and small group markets for nongrandfathered health plans (plans issued on or after January 1, 2014), includes comprehensive prescription drug coverage that covers both generic and brand name drugs. MIA advises that no contracts approved for use in the individual or small group markets limit coverage to generic drugs. Thus, the bill may *only* apply to individual grandfathered plans and large employer plans that limit prescription drugs to generics only.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2015  
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Analysis by: Jennifer B. Chasse

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510