

HOUSE BILL 1242

C3

6lr3484

By: **Delegates Kipke and Bromwell**

Introduced and read first time: February 12, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Reimbursement and Pharmacy Choice**

3 FOR the purpose of prohibiting a pharmacy benefits manager from reimbursing a
4 pharmacy or pharmacist for a pharmaceutical product or pharmacist service in a
5 certain amount; authorizing a pharmacy or pharmacist to decline to provide a
6 pharmaceutical product or pharmacist service to a patient or a pharmacy benefits
7 manager under certain circumstances; prohibiting a pharmacy benefits manager or
8 health benefit plan from imposing certain conditions on an individual or covered
9 entity under certain circumstances; requiring a pharmacy benefits manager or
10 health benefit plan to obtain certain consent from an individual under certain
11 circumstances; providing that an insured or other person covered under a health
12 benefit plan is entitled to reimbursement for a certain service under certain
13 circumstances; requiring the Maryland Insurance Commissioner to enforce this Act;
14 authorizing the Commissioner to render a certain decision and impose penalties
15 under certain circumstances; and generally relating to pharmacy benefits managers.

16 BY adding to

17 Article – Insurance

18 Section 15–1611

19 Annotated Code of Maryland

20 (2011 Replacement Volume and 2015 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Insurance**

24 **15–1611.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) A PHARMACY BENEFITS MANAGER MAY NOT REIMBURSE A PHARMACY**
2 **OR PHARMACIST FOR A PHARMACEUTICAL PRODUCT OR PHARMACIST SERVICE IN**
3 **AN AMOUNT LESS THAN THE AMOUNT THAT THE PHARMACY BENEFITS MANAGER**
4 **REIMBURSES ITSELF OR AN AFFILIATE FOR PROVIDING THE SAME PRODUCT OR**
5 **SERVICE.**

6 **(B) A PHARMACY OR PHARMACIST MAY DECLINE TO PROVIDE A**
7 **PHARMACEUTICAL PRODUCT OR PHARMACIST SERVICE TO A PATIENT OR A**
8 **PHARMACY BENEFITS MANAGER IF, AS A RESULT OF A MAXIMUM ALLOWABLE COST,**
9 **THE PHARMACY OR PHARMACIST WOULD BE PAID LESS FOR THE PRODUCT OR**
10 **SERVICE THAN THE ACQUISITION COST TO THE PHARMACY THAT PROVIDES THE**
11 **PRODUCT OR SERVICE.**

12 **(C) A PHARMACY BENEFITS MANAGER OR HEALTH BENEFIT PLAN MAY NOT**
13 **IMPOSE DIFFERENT COPAYMENTS, DEDUCTIBLES, FEES, LIMITATIONS ON**
14 **PROVIDER ACCESS, LIMITATIONS ON BENEFITS, OR OTHER CONDITIONS WHEN AN**
15 **INDIVIDUAL OR COVERED ENTITY USES ONE PHARMACY IN A PROVIDER NETWORK**
16 **INSTEAD OF ANOTHER PHARMACY IN THE PROVIDER NETWORK IF THE CHOSEN**
17 **PHARMACY OF THE INDIVIDUAL OR COVERED ENTITY ACCEPTS THE PRICING,**
18 **TERMS, AND CONDITIONS OF THE PROVIDER NETWORK.**

19 **(D) IF A PHARMACY BENEFITS MANAGER OR HEALTH BENEFIT PLAN**
20 **PROPOSES TO CHANGE AN INDIVIDUAL'S PHARMACY WITHIN THE PHARMACY**
21 **BENEFIT PLAN OR PROVIDER NETWORK, THE PHARMACY BENEFITS MANAGER OR**
22 **HEALTH BENEFIT PLAN SHALL OBTAIN THE EXPRESS WRITTEN CONSENT OF THE**
23 **INDIVIDUAL BEFORE MAKING THE CHANGE.**

24 **(E) IF A HEALTH BENEFIT PLAN PROVIDES FOR REIMBURSEMENT OF A**
25 **SERVICE THAT IS WITHIN THE LAWFUL SCOPE OF PRACTICE OF A PHARMACIST OR**
26 **PHARMACY, THE INSURED OR ANY OTHER PERSON COVERED UNDER THE HEALTH**
27 **BENEFIT PLAN IS ENTITLED TO REIMBURSEMENT FOR THE SERVICE REGARDLESS**
28 **OF WHETHER THE SERVICE IS PERFORMED BY A PHARMACIST OR PHARMACY OR**
29 **ANOTHER HEALTH CARE PRACTITIONER OR HEALTH CARE FACILITY.**

30 **(F) THE COMMISSIONER:**

31 **(1) SHALL ENFORCE THIS SECTION;**

32 **(2) MAY RENDER A BINDING DECISION IN ANY DISPUTE THAT ARISES**
33 **UNDER THIS SECTION; AND**

34 **(3) MAY IMPOSE PENALTIES FOR A VIOLATION OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2016.