

HOUSE BILL 1042

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CF SB 884

By: **Delegates Krimm, Anderton, Haynes, Lierman, Proctor, Ruth,
Valentino-Smith, and P. Young**

Introduced and read first time: February 6, 2020

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Prescription Drug Benefits – Retiree Benefits – Revisions**

3 FOR the purpose of altering the date on which the State shall discontinue certain
4 prescription drug benefits to certain persons if a certain event occurs; altering the
5 date by which the Department of Budget and Management is required to establish
6 certain retiree prescription drug coverage programs; altering the eligibility criteria
7 for participation in the retiree prescription drug coverage programs; altering the list
8 of recipients to whom the Secretary of Budget and Management is required to send
9 a certain notice of changes in a certain prescription drug benefit plan; and generally
10 relating to the State prescription drug benefits for retirees.

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 2–509.1
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2019 Supplement)

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

18 **Article – State Personnel and Pensions**

19 2–509.1.

20 (a) (1) Except as provided in subsection (b) of this section, the State shall
21 continue to include a prescription drug benefit plan in the health insurance benefit options
22 established under the Program and available to retirees under §§ 2–508 and 2–509 of this
23 subtitle notwithstanding the enactment of the federal Medicare Prescription Drug,
24 Improvement, and Modernization Act of 2003 or any other federal law permitting states to
25 discontinue prescription drug benefit plans to retirees of a state.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Except as provided in subsection (b) of this section:

2 (i) a retiree may elect to cover the retiree's spouse or dependent
3 child under the State prescription drug benefit plan under §§ 2-508 and 2-509 of this
4 subtitle; and

5 (ii) if a surviving spouse or surviving dependent child of a retiree is
6 eligible to enroll in the State prescription drug benefit plan under § 2-508 or § 2-509 of this
7 subtitle, the surviving spouse or surviving dependent child may elect to enroll in the State
8 prescription drug benefit plan.

9 (b) Except as provided in [subsection (c)] **SUBSECTIONS (C), (D), (E), AND (F)** of
10 this section, [on January 1, 2019,] **FOR ANY PLAN YEAR FOLLOWING THE SECOND**
11 **STATE BENEFIT OPEN ENROLLMENT PERIOD FOLLOWING THE FINAL RESOLUTION**
12 **OF THE INJUNCTION ISSUED IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF**
13 **MARYLAND IN FITCH V. STATE OF MARYLAND, ET AL., CASE NO. 1:18**
14 **CV-0287-PM(D.MD), IF THE STATE PREVAILS,** the State shall discontinue
15 prescription drug benefits for:

16 (1) a Medicare-eligible retiree;

17 (2) the Medicare-eligible spouse or surviving spouse of a retiree; and

18 (3) a Medicare-eligible dependent child or surviving dependent child of a
19 retiree.

20 (c) (1) If a retiree is eligible to participate in the prescription drug benefit plan
21 under Medicare, but the retiree's spouse or dependent child is not eligible to participate in
22 a Medicare prescription drug benefit plan, the retiree may elect to cover the retiree's spouse
23 or dependent child under the State prescription drug benefit plan.

24 (2) If the surviving spouse or surviving dependent child of a retiree is
25 eligible to enroll in the State prescription drug benefit plan under § 2-508 or § 2-509 of this
26 subtitle, but is not eligible to participate in the prescription drug benefit plan under
27 Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State
28 prescription drug benefit plan.

29 (d) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
30 spouse, and a retiree's dependent child or surviving dependent child:

31 (i) who is enrolled in a prescription drug benefit plan under
32 Medicare; **AND**

33 (ii) if the retiree:

1 **1. BEGAN STATE SERVICE ON OR BEFORE JUNE 30,**
2 **2011;**

3 **2. is retired [on or before December 31, 2019] BEFORE THE**
4 **FIRST DAY OF THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD DESCRIBED**
5 **IN SUBSECTION (B) OF THIS SECTION; and**

6 [(iii)] **3. [if the retiree] is eligible under § 2–508 or § 2–509 of this**
7 **subtitle to enroll and participate in the health insurance benefit options established under**
8 **the Program.**

9 (2) (i) Subject to subparagraph (ii) of this paragraph, [on or before
10 January 1, 2020,] **BEFORE THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN**
11 **ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION,** the
12 Department shall establish a Maryland State Retiree Prescription Drug Coverage Program
13 that reimburses a participant for out-of-pocket costs that exceed the limits established for
14 non-Medicare-eligible retirees in § 2–508(d)(2)(iii) of this subtitle.

15 (ii) The Department may establish an out-of-pocket limit higher
16 than the limits established in subparagraph (i) of this paragraph for a retiree who qualifies
17 for a partial State subsidy.

18 (3) The Maryland State Retiree Prescription Drug Coverage Program
19 established under paragraph (2) of this subsection may include:

20 (i) a health reimbursement account established in accordance with
21 § 105(h) of the Internal Revenue Code; or

22 (ii) another program that provides assistance with prescription drug
23 costs.

24 (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's
25 dependent child or surviving dependent child may enroll in the Maryland State Retiree
26 Prescription Drug Coverage Program during the open enrollment period or any special
27 enrollment period for retiree health insurance benefit options.

28 (e) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
29 spouse, and a retiree's dependent child or surviving dependent child:

30 (i) who is enrolled in a prescription drug benefit plan under
31 Medicare; and

32 (ii) if the retiree:

33 1. **A. began State service on or before June 30, 2011, AND**
34 **IS RETIRED ON OR AFTER THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN**

1 **ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION; OR**

2 **B. BEGAN STATE SERVICE ON OR AFTER JULY 1, 2011;**
3 **AND**

4 2. [retired on or after January 1, 2020; and

5 3.] is eligible under § 2–508 or § 2–509 of this subtitle to enroll
6 and participate in the health insurance benefit options established under the Program.

7 (2) (i) Subject to subparagraph (ii) of this paragraph, [on or before
8 January 1, 2020,] **BEFORE THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN**
9 **ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION**, the
10 Department shall establish a Maryland State Retiree Catastrophic Prescription Drug
11 Assistance Program that reimburses a participant for out-of-pocket costs after the
12 participant has entered catastrophic coverage under a prescription drug benefit plan under
13 Medicare.

14 (ii) The Department may establish a maximum reimbursement
15 amount for a retiree who qualifies for a partial State subsidy.

16 (3) The Maryland State Retiree Catastrophic Prescription Drug Assistance
17 Program under paragraph (2) of this subsection may provide reimbursements through:

18 (i) a health reimbursement account established in accordance with
19 § 105(h) of the Internal Revenue Code; or

20 (ii) another program that provides assistance with prescription drug
21 costs.

22 (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's
23 dependent child or surviving dependent child may enroll in the Maryland State Retiree
24 Catastrophic Prescription Drug Assistance Program during the open enrollment period or
25 any special enrollment period for retiree health insurance benefit options.

26 (f) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
27 spouse, and a retiree's dependent child or surviving dependent child:

28 (i) who is enrolled in:

29 1. the Maryland State Retiree Prescription Drug Coverage
30 Program established under subsection (d) of this section; or

31 2. the Maryland State Retiree Catastrophic Prescription
32 Drug Assistance Program established under subsection (e) of this section; and

1 (ii) if the retiree is eligible under § 2–508 or § 2–509 of this subtitle
2 to enroll and participate in the health insurance benefit options established under the
3 Program.

4 (2) (i) [On or before January 1, 2020,] **BEFORE THE FIRST DAY OF**
5 **THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD DESCRIBED IN**
6 **SUBSECTION (B) OF THIS SECTION**, the Department shall establish a Maryland State
7 Retiree Life–Sustaining Prescription Drug Assistance Program that reimburses a
8 participant for out–of–pocket costs for a life–sustaining prescription drug that is:

9 1. covered by the prescription drug benefit plan in the health
10 insurance benefit options established under the Program; and

11 2. not covered by the prescription drug benefit plan under
12 Medicare in which the participant is enrolled.

13 (ii) The Department shall develop a list of the prescription drugs
14 that qualify for reimbursement under subparagraph (i) of this paragraph.

15 (iii) The Department may establish maximum reimbursement
16 amounts for a retiree who qualifies for a partial State subsidy.

17 (3) The Maryland State Retiree Life–Sustaining Prescription Drug
18 Assistance Program established under paragraph (2) of this subsection may provide
19 reimbursements through:

20 (i) a health reimbursement account established in accordance with
21 § 105(h) of the Internal Revenue Code; or

22 (ii) another program that provides assistance with prescription drug
23 costs.

24 (4) A retiree, a retiree’s spouse or surviving spouse, and a retiree’s
25 dependent child or surviving dependent child shall be automatically enrolled in the
26 Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program on
27 enrollment in:

28 (i) the Maryland State Retiree Prescription Drug Coverage Program
29 established under subsection (d) of this section; or

30 (ii) the Maryland State Retiree Catastrophic Prescription Drug
31 Assistance Program established under subsection (e) of this section.

32 (g) (1) Subject to paragraph (2) of this subsection, not later than July 1 of each
33 year, the Secretary shall provide written certified notice of the [change] **CHANGES** in the
34 State prescription drug benefit plan under this section to the individuals who will [become]

1 **BE** eligible [in the next calendar year] to enroll in the:

2 (i) Maryland State Retiree Prescription Drug Coverage Program;

3 (ii) Maryland State Retiree Catastrophic Prescription Drug
4 Assistance Program; or

5 (iii) Maryland State Retiree Life-Sustaining Prescription Drug
6 Assistance Program.

7 (2) The notice shall include information regarding:

8 (i) coverage options available in the Medicare prescription drug
9 benefit plan, including options that are similar to the prescription drug benefit plan in the
10 health insurance benefit options established under the Program;

11 (ii) the potential for significant penalties if an individual does not
12 promptly choose a Medicare prescription drug benefit plan immediately on termination of
13 the individual's participation in the State prescription drug benefit plan;

14 (iii) the programs available under subsections (d), (e), and (f) of this
15 section; and

16 (iv) any additional resources made available by the Department in
17 accordance with this section.

18 (h) (1) The Department shall ensure Medicare-eligible retirees have access to
19 one-on-one counseling services to assist retirees in selecting a Medicare prescription drug
20 benefit plan.

21 (2) The Department shall develop a plan to communicate to
22 Medicare-eligible retirees the availability of:

23 (i) the programs under subsections (d), (e), and (f) of this section;
24 and

25 (ii) services and information regarding prescription drug benefit
26 plans under Medicare.

27 (3) On or before December 31, 2019, the Department shall submit a report
28 to the Senate Budget and Taxation Committee and the House Appropriations Committee,
29 in accordance with § 2-1257 of the State Government Article, on the plan developed under
30 paragraph (2) of this subsection.

31 (4) The report required under paragraph (3) of this subsection shall
32 include:

- 1 (i) options for providing one-on-one counseling, including:
- 2 1. in-person, over-the-phone, or web-based counseling;
- 3 2. the times at which one-on-one counseling will be
4 available;
- 5 3. a plan to ensure equitable geographic access to
6 one-on-one counseling; and
- 7 4. entering into a statewide contract with an employee
8 benefits administrator or similar entity to provide one-on-one counseling services;

9 (ii) plans for holding seminars in every county of the State to provide
10 information regarding eligibility for and available benefits under the programs established
11 under subsections (d), (e), and (f) of this section;

12 (iii) plans for providing access to a web-based overview and
13 interactive website that provide information on:

- 14 1. Medicare prescription drug benefit plans; and
- 15 2. subsidy and financial assistance programs for low-income
16 individuals; and

17 (iv) plans for providing a toll-free hotline for reporting issues and
18 concerns regarding the services provided in accordance with this paragraph.

19 (i) Subject to the requirements of § 13-108 of the State Finance and Procurement
20 Article, the Department may make an emergency procurement for:

- 21 (1) staff required to carry out the provisions of this section; and
- 22 (2) a third party to administer health reimbursement accounts established
23 under this section.

24 (j) The Department shall submit quarterly reports to the Governor and, in
25 accordance with § 2-1257 of the State Government Article, the House Appropriations
26 Committee, the Senate Budget and Taxation Committee, and the Joint Committee on
27 Pensions, on:

28 (1) the status of establishing the programs under subsections (d), (e), and
29 (f) of this section, including:

- 30 (i) the status of procuring any contracts necessary to operate the
31 programs; and

1 (ii) the prescription drugs determined to qualify for reimbursement
2 under the Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program
3 under subsection (f) of this section;

4 (2) the availability of one–on–one counseling services required under
5 subsection (h) of this section;

6 (3) the details of the health reimbursement accounts or other programs to
7 provide assistance with prescription drug costs for individuals enrolled in the programs
8 under subsections (d), (e), and (f) of this section, including:

9 (i) the specific out–of–pocket costs eligible for reimbursement;

10 (ii) the required process for receiving reimbursement;

11 (iii) the method of reimbursement;

12 (iv) the timing of reimbursement; and

13 (v) a plan to use debit cards to process reimbursements in a
14 convenient and efficient manner; and

15 (4) in total and by category for the previous quarter, the number of issues
16 and concerns reported to the hotline.

17 (k) The Department shall adopt regulations to implement the provisions of this
18 section.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2020.