

# HOUSE BILL 1307

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CF SB 1017

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By: ~~Delegates Kipke, Bhandari, Carr, Johnson, Kerr, Morgan, Szeliga, and K. Young~~ K. Young, Bagnall, Barron, Belcastro, Charles, Chisholm, Cullison, Hill, Kelly, Krebs, R. Lewis, Pena-Melnyk, Pendergrass, Reilly, Rosenberg, Saab, and Sample-Hughes

Introduced and read first time: February 7, 2020

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Pharmacy Benefits Managers – ~~Network Adequacy~~ Credentialing and**  
3 **Reimbursement**

4 FOR the purpose of ~~requiring a pharmacy benefits manager to maintain a certain network~~  
5 ~~that provides certain access to pharmacy services; requiring the Commissioner to~~  
6 ~~establish certain criteria for determining the adequacy of a pharmacy benefits~~  
7 ~~manager's network; authorizing the Commissioner to adopt certain regulations;~~  
8 prohibiting a pharmacy benefits manager from requiring a certain pharmacy or  
9 pharmacist to obtain certain ~~accreditation, certification, or~~ credentialing as a  
10 condition for participating in a certain network with certain frequency or charging a  
11 pharmacy or pharmacist a certain fee; authorizing the Commissioner to use certain  
12 ~~contracts to determine certain network adequacy; altering the fees or other certain~~  
13 ~~reimbursement that a pharmacy benefits manager is prohibited from directly or~~  
14 ~~indirectly charging a certain pharmacy or for which a pharmacy benefits manager is~~  
15 ~~prohibited from holding a certain pharmacy responsible; authorizing a pharmacist~~  
16 ~~or pharmacy to decline to provide certain pharmacy services under certain~~  
17 ~~circumstances; repealing certain circumstances under which a pharmacy benefits~~  
18 manager or purchaser is authorized to charge certain fees or hold certain pharmacies  
19 responsible for certain reimbursement that the pharmacy benefits manager or  
20 purchaser is otherwise prohibited from doing; prohibiting a pharmacy benefits  
21 manager or purchaser from reducing certain payment for certain pharmacy services  
22 under certain circumstances; providing for the application of this Act; providing for

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 a delayed effective date; making a technical change; and generally relating to  
2 pharmacy benefits managers, ~~network adequacy, and reimbursement.~~

3 ~~BY adding to~~

4 ~~Article – Insurance~~

5 ~~Section 15–1611.2~~

6 ~~Annotated Code of Maryland~~

7 ~~(2017 Replacement Volume and 2019 Supplement)~~

8 BY repealing and reenacting, with amendments,

9 Article – Insurance

10 Section 15–1628, 15–1628.2(d), and 15–1628.3

11 Annotated Code of Maryland

12 (2017 Replacement Volume and 2019 Supplement)

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

15 **Article – Insurance**

16 ~~15–1611.2.~~

17 ~~(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PHARMACY BENEFITS~~  
18 ~~MANAGER SHALL MAINTAIN A REASONABLY ADEQUATE AND ACCESSIBLE PHARMACY~~  
19 ~~BENEFITS MANAGER NETWORK CONSISTING OF CONTRACTED PHARMACIES THAT~~  
20 ~~PROVIDE CONVENIENT PATIENT ACCESS TO PHARMACY SERVICES.~~

21 ~~(B) (1) THE COMMISSIONER SHALL ESTABLISH CRITERIA FOR~~  
22 ~~DETERMINING THE ADEQUACY OF A PHARMACY BENEFITS MANAGER'S NETWORK~~  
23 ~~THAT INCLUDES:~~

24 ~~(I) A DETERMINATION OF THE PURCHASERS THAT CONTRACT~~  
25 ~~WITH THE PHARMACY BENEFITS MANAGER AND THE GEOGRAPHIC LOCATION IN~~  
26 ~~WHICH THE PURCHASERS OFFER COVERAGE FOR PRESCRIPTION DRUG BENEFITS;~~

27 ~~(II) A CALCULATION FOR DETERMINING A REASONABLE~~  
28 ~~DISTANCE FROM A PATIENT'S HOME TO A CONTRACTED PHARMACY; AND~~

29 ~~(III) A REVIEW OF COMPENSATION PROGRAMS TO ENSURE THAT~~  
30 ~~THE REIMBURSEMENT PAID TO PHARMACIES AND PHARMACISTS FOR PHARMACY~~  
31 ~~SERVICES IS FAIR AND REASONABLE.~~

32 ~~(2) A MAIL ORDER PHARMACY MAY NOT BE INCLUDED IN A~~  
33 ~~DETERMINATION OF A PHARMACY BENEFITS MANAGER'S NETWORK ADEQUACY.~~

1 ~~(c) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS~~  
2 ~~SECTION.~~

3 15-1628.

4 (a) (1) At the time of entering into a contract with a pharmacy or a pharmacist,  
5 and at least 30 working days before any contract change, a pharmacy benefits manager  
6 shall disclose to the pharmacy or pharmacist:

7 [(1)] (I) the applicable terms, conditions, and reimbursement rates;

8 [(2)] (II) the process and procedures for verifying pharmacy benefits and  
9 beneficiary eligibility;

10 [(3)] (III) the dispute resolution and audit appeals process; and

11 [(4)] (IV) the process and procedures for verifying the prescription drugs  
12 included on the formularies used by the pharmacy benefits manager.

13 ~~(2) A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE A~~  
14 ~~PHARMACY OR A PHARMACIST, AS A CONDITION FOR PARTICIPATING IN THE~~  
15 ~~PHARMACY BENEFITS MANAGER'S NETWORK, TO OBTAIN OR MAINTAIN~~  
16 ~~ACCREDITATION, CERTIFICATION, OR CREDENTIALING THAT IS INCONSISTENT~~  
17 ~~WITH, MORE STRINGENT THAN, OR IN ADDITION TO STATE REQUIREMENTS FOR~~  
18 ~~LICENSURE OR RELEVANT FEDERAL OR STATE STANDARDS.~~

19 (2) (I) THIS PARAGRAPH DOES NOT APPLY TO A REQUIREMENT  
20 THAT A SPECIALTY PHARMACY OBTAIN NATIONAL CERTIFICATION TO BE  
21 CONSIDERED A SPECIALTY PHARMACY IN A PHARMACY BENEFITS MANAGER'S OR  
22 PURCHASER'S NETWORK.

23 (II) FOR PURPOSES OF CREDENTIALING A PHARMACY OR A  
24 PHARMACIST AS A CONDITION FOR PARTICIPATING IN A PHARMACY BENEFITS  
25 MANAGER'S OR PURCHASER'S NETWORK, THE PHARMACY BENEFITS MANAGER OR  
26 PURCHASER MAY NOT:

27 1. REQUIRE A PHARMACY OR PHARMACIST TO RENEW  
28 CREDENTIALING MORE FREQUENTLY THAN ONCE EVERY 3 YEARS; OR

29 2. CHARGE A PHARMACY OR PHARMACIST A FEE FOR  
30 THE INITIAL CREDENTIALING OR RENEWING CREDENTIALING.

31 (b) (1) A contract or an amendment to a contract between a pharmacy benefits  
32 manager, a pharmacy services administration organization, or a group purchasing  
33 organization and a pharmacy may not become effective unless:

1 (i) at least 30 days before the contract or amendment is to become  
2 effective, the pharmacy benefits manager, pharmacy services administration organization,  
3 or group purchasing organization files the contract or amendment with the Commissioner  
4 in the form required by the Commissioner; and

5 (ii) the Commissioner does not disapprove the filing within 30 days  
6 after the contract or amendment is filed.

7 (2) The Commissioner shall adopt regulations to establish the  
8 circumstances under which the Commissioner may disapprove a contract.

9 ~~(C) THE COMMISSIONER MAY USE A CONTRACT FILED UNDER SUBSECTION~~  
10 ~~(B) OF THIS SECTION IN MAKING A DETERMINATION OF WHETHER A PHARMACY~~  
11 ~~BENEFITS MANAGER'S NETWORK IS ADEQUATE AS REQUIRED UNDER § 15-1611.2 OF~~  
12 ~~THIS SUBTITLE.~~

13 15-1628.2.

14 (d) (1) If a pharmacy benefits manager denies an appeal and a contracted  
15 pharmacy or a designee of the contracted pharmacy files a complaint with the  
16 Commissioner, the Commissioner shall:

17 (i) review the compensation program of the pharmacy benefits  
18 manager to ensure that the reimbursement for pharmacy [benefits management] services  
19 paid to the pharmacist or a pharmacy complies with this subtitle and the terms of the  
20 participating pharmacy contract; and

21 (ii) based on a determination made by the Commissioner under item  
22 (i) of this paragraph, dismiss the appeal or uphold the appeal and order the pharmacy  
23 benefits manager to pay the claim or claims in accordance with the Commissioner's  
24 findings.

25 (2) On request, the pharmacy benefits manager shall provide to the  
26 Commissioner all mathematical calculations, accounts, records, documents, files, logs,  
27 correspondence, or other information necessary to complete the Commissioner's review.

28 (3) All information and data collected by the Commissioner during a  
29 review:

30 (i) is considered to be confidential and proprietary information; and

31 (ii) is not subject to disclosure under the Public Information Act.

32 15-1628.3.

1 (A) A pharmacy benefits manager or a purchaser may not directly or indirectly  
 2 charge a contracted pharmacy, or hold a contracted pharmacy responsible for, a fee or  
 3 performance-based reimbursement related to the adjudication of a claim or an incentive  
 4 program ~~that is not~~

5 ~~(1) specifically enumerated by the pharmacy benefits manager or~~  
 6 ~~purchaser at the time of claim processing; or~~

7 ~~(2) reported on the initial remittance advice of an adjudicated claim].~~

8 ~~(B) IF THE AMOUNT REIMBURSED BY A PHARMACY BENEFITS MANAGER OR~~  
 9 ~~A PURCHASER FOR A PRESCRIPTION DRUG OR PHARMACY SERVICE IS LESS THAN~~  
 10 ~~THE PHARMACY ACQUISITION COST FOR THE SAME PRESCRIPTION DRUG OR~~  
 11 ~~PHARMACY SERVICE, THE PHARMACY OR PHARMACIST MAY DECLINE TO DISPENSE~~  
 12 ~~THE PRESCRIPTION DRUG OR PROVIDE THE PHARMACY SERVICE TO A BENEFICIARY.~~

13 (B) A PHARMACY BENEFITS MANAGER OR PURCHASER MAY NOT MAKE OR  
 14 ALLOW ANY REDUCTION IN PAYMENT FOR PHARMACY SERVICES BY A PHARMACY  
 15 BENEFITS MANAGER OR PURCHASER OR DIRECTLY OR INDIRECTLY REDUCE A  
 16 PAYMENT FOR A PHARMACY SERVICE UNDER A RECONCILIATION PROCESS TO AN  
 17 EFFECTIVE RATE OF REIMBURSEMENT, INCLUDING GENERIC EFFECTIVE RATES,  
 18 BRAND EFFECTIVE RATES, DIRECT AND INDIRECT REMUNERATION FEES, OR ANY  
 19 OTHER REDUCTION OR AGGREGATE REDUCTION OF PAYMENTS.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
 21 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or  
 22 after January 1, 2021.

23 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 24 June 1, 2020 January 1, 2021.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.