

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1017
Finance

(Senator Reilly)

Pharmacy Benefits Managers - Network Adequacy and Reimbursement

This bill requires a pharmacy benefits manager (PBM) to maintain a reasonably adequate and accessible pharmacy benefits network consisting of contracted pharmacies that provide convenient patient access to pharmacy services. The Insurance Commissioner must establish specified criteria for determining the adequacy of a PBM network. The Commissioner may use specified contracts to determine whether a PBM's network is adequate. A mail-order pharmacy may not be included in a determination of a PBM's network adequacy. The bill prohibits a PBM from requiring a pharmacy or pharmacist, as a condition for participating in the PBM's network, to obtain or maintain specified accreditation, certification, or credentialing. The bill authorizes a pharmacy or pharmacist to decline to dispense a prescription drug or provide a pharmacy service to a beneficiary if the amount reimbursed by a PBM or purchaser is less than the acquisition cost of the drug or service. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: No likely effect in FY 2020. The Maryland Insurance Administration (MIA) requires contractual support to review revised PBM contracts in FY 2021 only. As there are no fees associated with filing contracts, revenues are not affected.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: A PBM is a business that administers and manages prescription drug benefit plans for purchasers. A PBM must register with MIA prior to providing pharmacy benefits management services. The Insurance Commissioner is authorized to examine the affairs, transactions, accounts, and records of a registered PBM at the PBM's expense.

Before entering into a contract with a purchaser, a PBM must disclose certain information. A PBM must offer to provide a purchaser with any rebate-sharing contracts the PBM has with drug manufacturers. A PBM must also provide certain disclosures prior to entering into a contract with a pharmacy or pharmacist. A PBM must take certain actions prior to placing a drug on a maximum allowable cost (MAC) list and must provide pharmacies with a process to appeal, investigate, and resolve disputes regarding MAC pricing.

Background: According to the National Community Pharmacists Association, PBM contracts frequently require community pharmacists to dispense some drugs at a financial loss, often due to imposition of MAC, which acts as a cap on pharmacy reimbursement. In 2016, Mississippi enacted legislation that permits a pharmacy to refuse to provide drugs or services if it is not paid more than acquisition cost. If a pharmacy declines to dispense a drug, the pharmacy must provide the customer with information on where his or her prescription can be filled.

Small Business Effect: Small business pharmacies and pharmacists, among other things, may decline to dispense a drug or provide a service at a financial loss, and may participate in more PBM networks under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1307 (Delegate Kipke, *et al.*) - Health and Government Operations.

Information Source(s): National Community Pharmacists Association; Department of Budget and Management; Maryland Department of Health; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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