

HOUSE BILL 892

P6, P4
HB 1230/20 – APP

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CF SB 578

By: **Delegates Boteler, Adams, Anderton, Arentz, Arikan, Belcastro, Buckel, Carey, Ciliberti, Ghrist, Grammer, Griffith, Guyton, Hartman, Hornberger, Howard, Impallaria, Jackson, Jacobs, Jalisi, D. Jones, Kipke, Kittleman, Krebs, Landis, Lisanti, Long, Mautz, McComas, McKay, Metzgar, Morgan, Munoz, Novotny, Otto, Parrott, Reilly, Rose, Saab, Shoemaker, Szeliga, and Wivell**

Introduced and read first time: February 7, 2022
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Prescription Drug Benefits – Retirees**

3 FOR the purpose of authorizing certain retirees who began State service before a certain
4 date to be eligible for prescription drug benefits in the State Employee and Retiree
5 Health and Welfare Benefits Program; specifying that prescription drug benefits
6 shall be discontinued for certain Medicare–eligible retirees who began State service
7 on or after a certain date and their Medicare–eligible spouses and dependent
8 children; repealing the Maryland State Retiree Prescription Drug Coverage
9 Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance
10 Program, and the Maryland State Retiree Life–Sustaining Prescription Drug
11 Assistance Program; repealing a requirement that the Secretary of Budget and
12 Management provide a certain notice; repealing a requirement for the Department
13 of Budget and Management to submit certain reports and ensure Medicare–eligible
14 retirees have access to certain services; and generally relating to State prescription
15 drug benefits for retirees from State employment.

16 BY repealing and reenacting, with amendments,
17 Article – State Personnel and Pensions
18 Section 2–509.1
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2021 Supplement)

21 BY repealing
22 Chapter 767 of the Acts of the General Assembly of 2019
23 Section 2, 4, and 5

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Personnel and Pensions**

4 2–509.1.

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

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

12 (i) a retiree may elect to cover the retiree’s spouse or dependent
13 child under the State prescription drug benefit plan under §§ 2–508 and 2–509 of this
14 subtitle; and

15 (ii) if a surviving spouse or surviving dependent child of a retiree is
16 eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of this
17 subtitle, the surviving spouse or surviving dependent child may elect to enroll in the State
18 prescription drug benefit plan.

19 (b) **(1) THIS SUBSECTION APPLIES ONLY TO A RETIREE WHO BEGAN**
20 **STATE SERVICE ON OR AFTER JULY 1, 2011.**

21 **(2) Except as provided in [subsection (c) of this section] PARAGRAPH (3)**
22 **OF THIS SUBSECTION, on January 1, 2019, the State shall discontinue prescription drug**
23 **benefits for:**

24 **[(1)] (I) a Medicare–eligible retiree;**

25 **[(2)] (II) the Medicare–eligible spouse or surviving spouse of a retiree; and**

26 **[(3)] (III) a Medicare–eligible dependent child or surviving dependent child**
27 **of a retiree.**

28 **[(c) (1)] (3) (I) If a retiree is eligible to participate in the prescription**
29 **drug benefit plan under Medicare, but the retiree’s spouse or dependent child is not eligible**
30 **to participate in a Medicare prescription drug benefit plan, the retiree may elect to cover**
31 **the retiree’s spouse or dependent child under the State prescription drug benefit plan.**

32 **[(2)] (II) If the surviving spouse or surviving dependent child of a retiree**
33 **is eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of**

1 this subtitle, but is not eligible to participate in the prescription drug benefit plan under
2 Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State
3 prescription drug benefit plan.

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

6 (i) who is enrolled in a prescription drug benefit plan under
7 Medicare;

8 (ii) if the retiree is retired on or before December 31, 2019; and

9 (iii) if the retiree is eligible under § 2-508 or § 2-509 of this subtitle
10 to enroll and participate in the health insurance benefit options established under the
11 Program.

12 (2) (i) Subject to subparagraph (ii) of this paragraph, on or before
13 January 1, 2020, the Department shall establish a Maryland State Retiree Prescription
14 Drug Coverage Program that reimburses a participant for out-of-pocket costs that exceed
15 the limits established for non-Medicare-eligible retirees in § 2-508(d)(2)(iii) of this
16 subtitle.

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

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

22 (i) a health reimbursement account established in accordance with
23 § 105(h) of the Internal Revenue Code; or

24 (ii) another program that provides assistance with prescription drug
25 costs.

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

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

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

34 (ii) if the retiree:

- 1 1. began State service on or before June 30, 2011;
- 2 2. retired on or after January 1, 2020; and
- 3 3. is eligible under § 2–508 or § 2–509 of this subtitle to enroll
4 and participate in the health insurance benefit options established under the Program.

5 (2) (i) Subject to subparagraph (ii) of this paragraph, on or before
6 January 1, 2020, the Department shall establish a Maryland State Retiree Catastrophic
7 Prescription Drug Assistance Program that reimburses a participant for out-of-pocket
8 costs after the participant has entered catastrophic coverage under a prescription drug
9 benefit plan under Medicare.

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

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

14 (i) a health reimbursement account established in accordance with
15 § 105(h) of the Internal Revenue Code; or

16 (ii) another program that provides assistance with prescription drug
17 costs.

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

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

24 (i) who is enrolled in:

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

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

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

32 (2) (i) On or before January 1, 2020, the Department shall establish a

1 Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program that
2 reimburses a participant for out–of–pocket costs for a life–sustaining prescription drug that
3 is:

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

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

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

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

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

15 (i) a health reimbursement account established in accordance with
16 § 105(h) of the Internal Revenue Code; or

17 (ii) another program that provides assistance with prescription drug
18 costs.

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

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

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

27 (g) (1) Subject to paragraph (2) of this subsection, not later than July 1 of each
28 year, the Secretary shall provide written certified notice of the change in the State
29 prescription drug benefit plan under this section to the individuals who will become eligible
30 in the next calendar year to enroll in the:

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

32 (ii) Maryland State Retiree Catastrophic Prescription Drug
33 Assistance Program; or

1 (iii) Maryland State Retiree Life-Sustaining Prescription Drug
2 Assistance Program.

3 (2) The notice shall include information regarding:

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

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

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

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

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

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

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

21 (ii) services and information regarding prescription drug benefit
22 plans under Medicare.

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

27 (4) The report required under paragraph (3) of this subsection shall
28 include:

29 (i) options for providing one-on-one counseling, including:

30 1. in-person, over-the-phone, or web-based counseling;

31 2. the times at which one-on-one counseling will be
32 available;

1 3. a plan to ensure equitable geographic access to
2 one-on-one counseling; and

3 4. entering into a statewide contract with an employee
4 benefits administrator or similar entity to provide one-on-one counseling services;

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

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

10 1. Medicare prescription drug benefit plans; and

11 2. subsidy and financial assistance programs for low-income
12 individuals; and

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

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

17 (1) staff required to carry out the provisions of this section; and

18 (2) a third party to administer health reimbursement accounts established
19 under this section.

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

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

26 (i) the status of procuring any contracts necessary to operate the
27 programs; and

28 (ii) the prescription drugs determined to qualify for reimbursement
29 under the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program
30 under subsection (f) of this section;

31 (2) the availability of one-on-one counseling services required under
32 subsection (h) of this section;

1 (2) 9 months or more before the first day of the next State health benefits
2 open enrollment period, the following shall begin on the first day of the State health
3 benefits plan year immediately following the resolution following the next open enrollment
4 period:

5 (i) the elimination of the State prescription drug benefits for
6 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and
7 Medicare-eligible dependent children or surviving dependent children of retirees under §
8 2-509.1(b) of the State Personnel and Pensions Article;

9 (ii) the establishment of the Maryland State Retiree Prescription
10 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug
11 Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug
12 Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,
13 respectively, as enacted by Section 1 of this Act; and

14 (iii) the provision of written certified notice to individuals under §
15 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.]

16 [SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General
17 Assembly that the Department of Budget and Management establish the Maryland State
18 Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic
19 Prescription Drug Assistance Program, and the Maryland State Retiree Life-Sustaining
20 Prescription Drug Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel
21 and Pensions Article, respectively, in a manner that allows retirees to access
22 reimbursement at the time of prescription drug purchase, through a mechanism such as
23 debit cards.]

24 [SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General
25 Assembly that the Department of Budget and Management attend at least one meeting
26 each year of the Joint Committee on Pensions to update the Committee on implementation
27 of the provisions of this Act.]

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
29 1, 2022.