

SENATE BILL 578

P6, P4

2lr1290
CF 2lr1090

By: **Senators Klausmeier, Augustine, Carozza, Corderman, Edwards, Hershey, Hester, Hettleman, Simonaire, Lee, McCray, Patterson, Salling, Watson, West, and Sydnor**

Introduced and read first time: February 2, 2022

Assigned to: Budget and Taxation

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Personnel and Pensions

2–509.1.

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

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

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

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

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

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

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

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

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

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

[(2)] (II) If the surviving spouse or surviving dependent child of a retiree is eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of this subtitle, but is not eligible to participate in the prescription drug benefit plan under Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State prescription drug benefit plan.

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

3 (i) who is enrolled in a prescription drug benefit plan under
4 Medicare;

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

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

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

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

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

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

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

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

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

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

31 (ii) if the retiree:

32 1. began State service on or before June 30, 2011;

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

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

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

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

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

12 (i) a health reimbursement account established in accordance with
13 § 105(h) of the Internal Revenue Code; or

14 (ii) another program that provides assistance with prescription drug
15 costs.

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

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

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

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

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

29 (ii) Maryland State Retiree Catastrophic Prescription Drug
30 Assistance Program; or

31 (iii) Maryland State Retiree Life–Sustaining Prescription Drug
32 Assistance Program.

1 (2) The notice shall include information regarding:

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

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

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

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

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

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

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

19 (ii) services and information regarding prescription drug benefit
20 plans under Medicare.

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

25 (4) The report required under paragraph (3) of this subsection shall
26 include:

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

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

29 2. the times at which one-on-one counseling will be
30 available;

31 3. a plan to ensure equitable geographic access to
32 one-on-one counseling; and

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

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

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

8 1. Medicare prescription drug benefit plans; and

9 2. subsidy and financial assistance programs for low-income
10 individuals; and

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

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

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

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

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

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

24 (i) the status of procuring any contracts necessary to operate the
25 programs; and

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

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

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

- 1 (i) the specific out-of-pocket costs eligible for reimbursement;
- 2 (ii) the required process for receiving reimbursement;
- 3 (iii) the method of reimbursement;
- 4 (iv) the timing of reimbursement; and
- 5 (v) a plan to use debit cards to process reimbursements in a
6 convenient and efficient manner; and
- 7 (4) in total and by category for the previous quarter, the number of issues
8 and concerns reported to the hotline.
- 9 (k) The Department shall adopt regulations to implement the provisions of this
10 section.]

11 Chapter 767 of the Acts of 2019

12 [SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other
13 provision of law, if the final resolution of the injunction issued in the U.S. District Court
14 for the District of Maryland in *Fitch v. State of Maryland et al*, Case No. 1:18
15 CV-0287-PM (D. Md.) occurs on a date that is:

16 (1) less than 9 months before the first day of the next State health benefits
17 open enrollment period, the following shall begin on the first day of the second State health
18 benefits plan year immediately following the resolution:

19 (i) the elimination of the State prescription drug benefits for
20 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and
21 Medicare-eligible dependent children or surviving dependent children of retirees under §
22 2-509.1(b) of the State Personnel and Pensions Article;

23 (ii) the establishment of the Maryland State Retiree Prescription
24 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug
25 Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug
26 Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,
27 respectively, as enacted by Section 1 of this Act; and

28 (iii) the provision of written certified notice to individuals under §
29 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act;
30 or

31 (2) 9 months or more before the first day of the next State health benefits
32 open enrollment period, the following shall begin on the first day of the State health
33 benefits plan year immediately following the resolution following the next open enrollment

1 period:

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

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

11 (iii) the provision of written certified notice to individuals under §
12 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.]

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2022.