

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 823

(Senator Kramer)

Finance

Health and Government Operations

**Pharmacy Services Administrative Organizations and Pharmacy Benefits
Managers – Contracts**

This bill specifies that each contract form or an amendment to a contract form between a pharmacy benefits manager (PBM) and a pharmacy services administrative organization (PSAO) acting on behalf of a pharmacy may not become effective unless the PBM files a specified informational filing with the Insurance Commissioner. A PSAO that has not registered with the Commissioner may enter into an agreement or contract with a PBM if the PSAO is not contracting with any independent pharmacies in Maryland. Administrative contract requirements apply to a pharmacy services administrative contract (PSAC) or an amendment to a PSAC and not to a contract (or amendment to a contract) between a PSAO, on behalf of an independent pharmacy, and a PBM or group purchasing organization. A PSAC must require the PSAO to provide to an independent pharmacy an *electronic or paper* copy of any contracts, amendments, payment schedules, or reimbursement rates, as specified.

Fiscal Summary

State Effect: The bill does not have a material impact on State finances or operations.

Local Effect: The bill does not have a material impact on local finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: A PSAO is an entity that provides a contracted pharmacy with contracting administrative services relating to prescription drug benefits. Chapters 398 and 399 of 2020

require a PSAO to register with the Commissioner, beginning July 1, 2021, before providing services as a PSAO to independent pharmacies in the State. A PSAO that has not registered may not enter into an agreement or a contract with an independent pharmacy or a PBM.

Each contract form or an amendment to a contract form between a PBM and a pharmacy may not become effective unless, at least 30 days before the contract form or amendment is to become effective, the PBM files an informational filing with the Commissioner.

A PSAC or a contract between a PSAO, on behalf of an independent pharmacy, and a PBM or group purchasing organization (and related amendments to such contracts) may not become effective unless (1) the PSAO files the contract or amendment (if required) with the Commissioner at least 60 days before the contract or amendment is to become effective and (2) the Commissioner does not disapprove the filing within 60 days after the contract or amendment is filed. Notice from the Commissioner that a filed contract or amendment may be used in the State constitutes a waiver of any unexpired part of the filing period. The Commissioner must adopt regulations to establish the circumstances under which a contract may be disapproved and specify the types of amendments required to be filed.

A PSAC must require the PSAO to provide to an independent pharmacy *a copy of* any contracts, amendments, payment schedules, or reimbursement rates within five working days after the execution of a contract, or an amendment to a contract, signed on behalf of the independent pharmacy by the PSAO. A PSAC may prohibit an independent pharmacy from disclosing documents provided to the pharmacy to any competitor of the PSAO.

If the Commissioner determines that a PSAO has violated any provision of law or related regulations, the Commissioner may issue an order that requires a PSAO to (1) cease and desist; (2) take specific affirmative action to correct the violation; (3) make restitution to a person that has suffered financial injury because of the violation; or (4) pay a fine determined by the Commissioner. In addition to any other enforcement action taken by the Commissioner, the Commissioner may impose a civil penalty of up to \$10,000 for each violation.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 973 (Delegate Kelly) - Health and Government Operations.

Information Source(s): Department of Budget and Management; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History:
fnu2/ljm

First Reader - March 9, 2022

Third Reader - March 25, 2022

Revised - Amendment(s) - March 25, 2022

Analysis by: Jennifer B. Chasse

Direct Inquiries to:

(410) 946-5510

(301) 970-5510