

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 382

(Delegate Kipke, *et al.*)

Health and Government Operations

Finance

Maryland Department of Health and Prescription Drug Affordability Board -
Managed Care Organizations and Prescription Drug Claims - Study

This emergency bill requires the Maryland Department of Health (MDH) and the Prescription Drug Affordability Board (PDAB) to jointly study (1) the total amount that Medicaid managed care organizations (MCOs) paid pharmacies for prescription drug claims in calendar 2021 and 2022; (2) what the total amount paid to pharmacies would have been if claims had been reimbursed at Medicaid fee-for-service rates (FFS); and (3) how to best address the inconsistency between these amounts by considering the total cost to the State and recommending a methodology for determining the most accurate ingredient cost of a drug and an appropriate dispensing fee. MDH and PDAB must jointly report their findings to Maryland Medicaid and specified committees of the General Assembly by October 31, 2023.

Fiscal Summary

State Effect: MDH and PDAB can conduct and report on the joint study with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Medicaid must establish maximum reimbursement levels for the drug products for which there is a generic equivalent based on the cost of the generic product.

If the prescriber directs a brand name drug, the reimbursement level must be based on the cost of the brand name product.

Chapter 534 of 2019, among other things, required Medicaid to contract with an independent auditor for an audit of pharmacy benefits managers (PBMs) that contract with Medicaid MCOs and provide the results to the General Assembly.

Outpatient pharmacy coverage is an optional benefit under Medicaid. Reimbursement for prescription drugs varies between FFS Medicaid (which covers about 15% of Medicaid enrollees) and HealthChoice (under which Medicaid MCOs cover about 85% of Medicaid enrollees).

In FFS, Medicaid reimburses pharmacies based on a two-part formula consisting of the ingredient cost of the drug and the professional dispensing fee. Effective April 2017, Maryland adopted the National Average Drug Acquisition Cost (NADAC) methodology to calculate the ingredient cost of the drug. This methodology estimates the national average drug invoice price paid by independent and retail chain pharmacies. For any drug not included in NADAC, the State uses its own State actual acquisition cost (SAAC) as a secondary benchmark. Thus, for FFS pharmacy expenditures, Medicaid reimburses pharmacies as follows:

- the ingredient cost of the drug based on NADAC or a provider's usual and customary charges, whichever is lower; if there is no NADAC, the lowest of the wholesale acquisition cost, the federal upper limit, SAAC, or a provider's usual and customary charges; and
- a professional dispensing fee of \$10.67 for brand name and generic drugs.

In HealthChoice, eight out of nine Medicaid MCOs use a PBM (Kaiser Permanente purchases drugs directly from manufacturers). PBM reimbursement amounts are proprietary and confidential. However, narrative in the 2018 *Joint Chairmen's Report* requested that MDH report on various aspects of pharmacy reimbursement. MDH's [response](#) summarized MCO PBM costs for a sample of drugs according to a low, high, and average rate across all MCOs.

The report noted that the FFS average ingredient cost per unit was lower than the MCO average ingredient cost per unit for 37 of the drugs analyzed. However, the professional dispensing fees paid by MCOs were much lower than those paid under FFS. Of the drugs sampled, only 3 had higher MCO dispensing fees than the FFS rate, and the average dispensing fee paid by MCOs across the sample was only \$2.63.

Additional Comments: It is anticipated that MDH will oversee the study and provide the total amount that MCOs paid pharmacies for prescription drug claims in calendar 2021 and

2022 and what the total amount would have been if claims had been reimbursed at Medicaid FFS rates. PDAB advises that it will (1) provide input on the design of the study; (2) examine and assess alternatives for best capturing the accurate ingredient costs of various drugs; and (3) analyze claims data to consider the total cost to the State of instituting certain reimbursement schemes for dispensing fees.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 895 (Senators Ready and Klausmeier) - Finance.

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

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