

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 876

(Delegate S. Johnson, *et al.*)

Health and Government Operations

Finance

Health Insurance - Pharmacy Benefits Managers - Specialty Drugs

This bill prohibits an insurer, nonprofit health service plan, and health maintenance organization (collectively known as carriers), including those that provide prescription drug coverage through a pharmacy benefits manager (PBM), from excluding coverage for covered specialty drugs administered or dispensed by a provider. This prohibition applies if the carrier determines that (1) the provider that administers or dispenses the drug is an in-network provider of covered medical oncology services and complies with State regulations for the administering and dispensing of specialty medication and (2) the drug is infused, auto-injected, or an oral targeted immune modulator (or an oral medication that requires complex dosing based on clinical presentation or is used concomitantly with other infusion or radiation therapies). The reimbursement rate for a covered specialty drug that meets these requirements must be the same as the rate applicable to a designated specialty pharmacy for dispensing the drug and billed at a nonhospital level of care or place of service. The bill does not prohibit a carrier from refusing to authorize or approve or from denying coverage of a covered specialty drug administered or dispensed by a provider if administering or dispensing the drug fails to satisfy medical necessity criteria.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) in FY 2025 only from the \$125 rate and form filing fee. Any additional workload for MIA can be absorbed with existing budgeted resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law:

Specialty Drugs

A “specialty drug” means a prescription drug that (1) is prescribed for an individual with a complex or chronic medical condition or a rare medical condition; (2) costs \$600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires either a difficult or unusual process of delivering the drug to the patient or enhanced patient education, management, or support before or after administration of the drug. A specialty drug does not include a prescription drug prescribed to treat diabetes, HIV, or AIDS; it does include a prescription drug prescribed to treat multiple sclerosis, hepatitis C, rheumatoid arthritis, cystic fibrosis, hemophilia, or multiple myeloma.

Providers

A “provider” means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services. “Health care service” means a health or medical care procedure or service rendered by a health care provider that (1) provides testing, diagnosis, or treatment of a human disease or dysfunction or (2) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

Pharmacy Benefits Managers

A PBM is a business that administers and manages prescription drug benefit plans. A PBM must register with MIA prior to providing pharmacy benefits management services.

A PBM that provides pharmacy benefits management services on behalf of a carrier may not require that a beneficiary use a specific pharmacy or entity to fill a prescription if the PBM (or a corporate affiliate) has an ownership interest in the pharmacy or entity or vice versa. A PBM may require a beneficiary to use a specific pharmacy or entity for a specialty drug.

A PBM that provides pharmacy benefits management services on behalf of a carrier may not reimburse a pharmacy or pharmacist for a pharmaceutical product or pharmacist service in an amount less than the PBM reimburses itself or an affiliate for providing the same product or service. This prohibition does not apply to reimbursement for specialty drugs, mail order drugs, or to a chain pharmacy with more than 15 stores or a pharmacist who is an employee of the chain pharmacy.

Carriers

A carrier may require a subscriber, member, or beneficiary to obtain a specialty drug through a specific pharmacy, including a pharmacy participating in the carrier's provider network, if the carrier determines that the pharmacy meets its performance standards and accepts its network reimbursement fees.

Additional Information

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

Designated Cross File: SB 526 (Senator Lam) - Finance.

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

Fiscal Note History: First Reader - February 11, 2024
km/jc Third Reader - April 2, 2024
Revised - Amendment(s) - April 2, 2024

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510