



**HB 601**

Pharmacy Benefits Managers-Definition of Purchaser and ERISA

Position of: INDEPENDENT PHARMACIES OF MARYLAND

Position: FAVORABLE

WHAT THIS BILL DOES:

**This bill allows implementation in Maryland of the recent U.S. Supreme Court case, *Rutledge v. Pharmaceutical Care Management Association*, (Dec. 10, 2020).**

The bill alters the definition of a “purchaser” under provisions of the Insurance Code. It repeals the exclusion of certain persons and plans that provide prescription drug benefits through plans that are subject to ERISA.

Under current law, a “purchaser”, under provisions of the Insurance Code dealing with Pharmacy Benefit Managers (PBMs), does not include persons or organizations that provide prescription drug benefits through plans subject to ERISA. As a result, provisions of the Insurance Code dealing with PBMs will not apply to plans covered by ERISA.

On December 10, 2020, the U.S. Supreme Court, in *Rutledge v. Pharmaceutical Care Management Association*, (PCMA is the organization which represents PBMs) issued an opinion which greatly expands the power of a state to regulate PBMs even in ERISA plans. PCMA had challenged a law in Arkansas which effectively required PBMs to reimburse pharmacies at a price at least equal to the pharmacy’s wholesale cost.

The Court held that the law was not pre-empted by ERISA, and announced legal guidelines that greatly expand what a state may do to regulate PBMs even under ERISA plans.

**HB 601 will allow Maryland to regulate PBMs in the manner now permitted by the Court’s ruling, by eliminating a statutory prohibition that would essentially still prohibit PBM regulation under ERISA plans. This statutory change will allow *Rutledge* to be fully implemented in Maryland.**

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