

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1007 (Delegate Kipke)
 Health and Government Operations

Maryland Medical Assistance Program and Managed Care Organizations That
 Use Pharmacy Benefits Managers - Reimbursement Requirements

This emergency bill requires Medicaid to establish minimum reimbursement levels for drugs with a generic equivalent that are at least equal to the National Average Drug Acquisition Cost (NADAC) of the generic drug plus the fee-for-service (FFS) professional dispensing fee. If a prescriber directs a specific brand name drug, reimbursement must be based on NADAC of the brand name product plus the FFS professional dispensing fee. A pharmacy benefits manager (PBM) that contracts with a pharmacy on behalf of a Medicaid managed care organization (MCO) must reimburse the pharmacy in an amount that is at least equal to NADAC plus the FFS professional dispensing fee.

Fiscal Summary

State Effect: Medicaid expenditures increase by \$24.1 million (60% federal funds, 40% general funds) in FY 2022 to increase pharmacy reimbursement, as discussed below. Federal fund revenues increase accordingly. Future years reflect annualization and inflation. **This bill increases the cost of an entitlement program beginning in FY 2022.**

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
FF Revenue	\$14.5	\$59.0	\$60.2	\$61.4	\$62.6
GF Expenditure	\$9.6	\$39.3	\$40.1	\$40.9	\$41.7
FF Expenditure	\$14.5	\$59.0	\$60.2	\$61.4	\$62.6
Net Effect	(\$9.6)	(\$39.3)	(\$40.1)	(\$40.9)	(\$41.7)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. In FY2023 the expenditures increase by \$98.1 million (\$59M FF and \$39.3 GF).

Small Business Effect: Meaningful.

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 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 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, all nine Medicaid MCOs use a PBM. PBM reimbursement amounts are proprietary and confidential. However, narrative in the 2018 *Joint Chairmen's Report* requested that the Maryland Department of Health (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.

State Expenditures: Medicaid expenditures increase by an estimated \$24.1 million (60% federal funds, 40% general funds) in fiscal 2022, which assumes April 1, 2022, implementation of the emergency bill. This estimate reflects the additional cost for PBMs used by all nine Medicaid MCOs to reimburse for prescription drugs according to the bill's requirements.

On an annualized basis, MCOs' estimated total ingredient costs are estimated to *decline* by \$12.9 million due to use of NADAC for all generic drugs. However, MCO expenditures for dispensing fees are estimated to *increase* by \$109.3 million to pay the current FFS professional dispensing fee of \$10.67 for a *net increase* of \$96.4 million. Future years reflect 2% annual inflation in the cost of prescription drugs and the federal match remaining at 60%. Thus, in fiscal 2023, Medicaid expenditures increase by a *net* \$98.4 million. By fiscal 2027, the *net* increase is projected to be \$106.5 million.

Small Business Effect: Small business pharmacies benefit from increased professional dispensing fees for Medicaid MCO enrollees, particularly those pharmacies that serve a high proportion of Medicaid enrollees.

Additional Information

Prior Introductions: HB 602 of 2021 received a hearing in the House Health and Government Operations Committee but was withdrawn. HB 756 of 2020 received a hearing in the House Health and Government Operations Committee, but no further action was taken. As introduced, HB 589 of 2019 was substantially similar. The bill was amended and enacted as Chapter 534 of 2019.

Designated Cross File: None.

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

Fiscal Note History: First Reader - March 7, 2022
km/ljm

Analysis by: Jennifer B. Chasse

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