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Chairwoman Melony Griffith
Senate Finance Committee Members
Miller Senate Office Building, 3 East
Annapolis, Maryland 21401

OPPOSE - HB 357 – Altering the Definition of Purchaser & HB 374 – Pharmacy Audits

Dear Chairwoman Griffith, Vice Chair Klausmeier, and Members of the Senate Finance Committee:

On behalf of the Pharmaceutical Care Management Association (PCMA), I appreciate the opportunity to comment on HB 357, a bill to amend the statutory definition of purchaser in various sections of the Insurance Statute (15-1601 through 15-1633), as well as HB 374 which give the state authority to regulate ERISA and self-funded plans as they conduct audits of network pharmacies. PCMA respectfully requests an unfavorable report on this bill.

PCMA is the national trade association representing America's Pharmacy Benefit Managers (PBMs), which administer outpatient prescription drug plans for more than 266 million Americans with health coverage provided through Fortune 500 large and small employers, labor unions and government programs. PBMs are projected to save payers over \$34.7 billion through the next decade -- \$962 per patient per year – due to tools such as negotiating price discounts with drug manufacturers and establishing and managing pharmacy networks, in addition to disease management and adherence programs for patients.

HB 357 and HB 374 expand the state's authority over ERISA and self-funded plans to the detriment of employer health benefit plan sponsors.

In 2020, the US Supreme Court "Rutledge" case examined whether an Arkansas law regarding reimbursements to pharmacies was preempted by federal ERISA statute, or in other words, whether ERISA plans were exempt from the state's authority. Ultimately, while the court held that Arkansas had the authority for rate regulation, the Court also acknowledged that the law in question could raise costs for ERISA plans and that those plans could pay more for prescription benefits in Arkansas compared to other states. Additionally, the Court implied that states are still not allowed to force employer plans to structure benefits in a specific way that would increase costs so much for employers that the employer would be forced to restructure its benefits because that may run afoul with federal law.

HB 357 & HB 374 will prevent the ability of governments, employers, and labor unions to provide affordable and accessible prescription drug coverage for their employees and their families by limiting the tools used by PBMs to control healthcare costs. There is not one payor entity asking for the state to have this level of oversight over its plan.

Finally, while PCMA appreciates the work of the House committee by amending HB 374 (Audit), the bill still inappropriately extends the state's authority over how self-funded plans conduct audits.

It is with these considerations for government plans, employers, and labor unions in mind that we respectfully oppose HB 357 and HB 374. I appreciate the opportunity to voice our concerns and am happy to address any questions you may have.

Sincerely,

Heather R. Cascone