

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1400 (Delegate Conroy, *et al.*)
Economic Matters and Environmental Matters

Fair Pricing for Prescription Drugs - Maximum Allowable Prices

This bill prohibits a drug manufacturer from charging a price for a prescription drug that is more than the lower of: (1) the price listed in the federal supply schedule for pharmaceuticals and drugs maintained by the U.S. Department of Veterans' Affairs; (2) the price listed in the drug formulary maintained by the Canadian Province of Quebec; or (3) the price charged in any other state. A drug wholesaler cannot charge a price for a prescription drug that is more than the manufacturer's maximum price plus any usual and customary wholesale markup. A drug retailer cannot charge a price for a prescription drug that is more than the maximum wholesale price plus any usual and customary retail markup and a dispensing fee that does not exceed the dispensing fee for prescriptions dispensed under the Medicaid program.

Fiscal Summary

State Effect: Expenditures for the State Employee Health Benefits Plan and the Medicaid program could increase or decrease depending on the drug utilization by State employees and Medicaid enrollees. No effect on revenues.

Local Effect: Expenditures for local jurisdiction employee prescription drug benefits could increase or decrease depending on the drug utilization by employees. No effect on revenues.

Small Business Effect: Potential meaningful. Small business expenditures for employee prescription drug benefits could increase or decrease depending on the drug utilization by employees.

Analysis

Current Law: None applicable.

Background: The Patented Medicines Price Review Board (PMPRB), a Canadian governmental agency that oversees the pharmaceutical industry, negotiates a set price for patented prescription drugs with drug manufacturers rather than permitting the manufacturing companies to set their own wholesale prices. The board regulates prices of patented drugs only. Generally, the board does not allow a newly-approved drug to be priced higher than the most expensive existing drug used to treat the same condition.

A recent survey conducted by the Fraser Institute found that prescription drugs are generally cheaper in Canada than in the United States. However, generic drugs tend to be more expensive in Canada at the retail level and the average American would spend more on generic drugs if he or she were paying Canadian prices rather than current American prices.

The current Medicaid reimbursement rate for prescription drugs is average wholesale price (AWP) minus 10% plus a \$4.21 dispensing fee paid to the pharmacist. The current State Employee Health Benefits Plan reimbursement rate for prescription drugs is AWP minus 13% plus a \$2.50 dispensing fee paid to the pharmacist.

State Fiscal Effect: Expenditures for the State Employee Health Benefits Plan and the Medicaid program could increase or decrease, depending on drug utilization by State employees and Medicaid enrollees. Tying maximum prices for prescription drugs sold in Maryland to drug prices: (1) in Quebec; (2) on the drug formulary maintained by the U.S. Department of Veterans' Affairs; or (3) charged in any other state could increase the prices of some drugs sold in Maryland and decrease the prices charged for others. There are insufficient data at this time to reliably estimate any increase or decrease in State Employee Health Benefits Plan or Medicaid expenditures because it is unknown which drugs may be more expensive or less expensive under the bill's requirements and what the actual drug utilization rates are for State employees and Medicaid enrollees.

State plan expenditures assume a fund mix of 60% general funds, 20% federal funds, and 20% special funds; 20% of expenditures are reimbursable through employee contributions. Medicaid expenditures are 50% federal funds and 50% general funds. Revenues would not be affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *Prescription Drug Prices in Canada and the United States, A Comparative Survey (August 2000)*; The Fraser Institute, *Prescription Drug Costs: Has Canada Found the Answer? (May 19, 2000)*; National Center for Policy Analysis; Department of Budget and Management (Employee Benefits Division); AdvancePCS; Maryland Insurance Administration; Department of Health and Mental Hygiene (Boards and Commissions, Maryland Health Care Commission, AIDS Administration); Department of Legislative Services

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