

# SENATE BILL 919

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CF HB 740

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By: ~~Senator Mathias~~ Senators Mathias, Astle, Benson, Feldman, Hershey,  
Jennings, Klausmeier, Middleton, Oaks, Reilly, and Rosapepe

Introduced and read first time: February 3, 2017

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **President Jimmy Carter Cancer Treatment Access Act**

3 FOR the purpose of prohibiting a certain insurer, nonprofit health service plan, or health  
4 maintenance organization from imposing a step therapy or fail-first protocol on an  
5 insured or an enrollee for a certain prescription drug used in the treatment of a  
6 certain cancer under certain circumstances; providing for the application of this Act;  
7 making stylistic and conforming changes; and generally relating to step therapy or  
8 fail-first protocols for prescription drugs to treat cancer under health insurance  
9 policies and contracts.

10 BY repealing and reenacting, with amendments,  
11 Article – Insurance  
12 Section 15–142  
13 Annotated Code of Maryland  
14 (2011 Replacement Volume and 2016 Supplement)

15 Preamble

16 WHEREAS, President Jimmy Carter announced in August 2015 that he had an  
17 aggressive form of melanoma skin cancer, and the tumors had spread from his skin into his  
18 liver and brain; and

19 WHEREAS, President Carter received treatment with surgery, radiation, and a new  
20 immunotherapy drug; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 WHEREAS, In December 2015, President Carter revealed that recent tests did not  
2 show any signs of the original cancer spots or any new ones; and

3 WHEREAS, Every Maryland resident with health insurance should have the same  
4 access to cancer drugs that President Carter had; now, therefore,

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
6 That the Laws of Maryland read as follows:

7 **Article – Insurance**

8 15–142.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) “Step therapy or fail–first protocol” means a protocol established by an  
11 insurer, a nonprofit health service plan, or a health maintenance organization that requires  
12 a prescription drug or sequence of prescription drugs to be used by an insured or an enrollee  
13 before a prescription drug ordered by a prescriber for the insured or the enrollee is covered.

14 (3) “Step therapy drug” means a prescription drug or sequence of  
15 prescription drugs required to be used under a step therapy or fail–first protocol.

16 (4) “Supporting Medical Information” means:

17 (i) a paid claim from an entity subject to this section for an insured  
18 or an enrollee;

19 (ii) a pharmacy record that documents that a prescription has been  
20 filled and delivered to an insured or an enrollee, or a representative of an insured or an  
21 enrollee; or

22 (iii) other information mutually agreed on by an entity subject to this  
23 section and the prescriber of an insured or an enrollee.

24 (b) (1) This section applies to:

25 (i) insurers and nonprofit health service plans that provide hospital,  
26 medical, or surgical benefits to individuals or groups on an expense–incurred basis under  
27 health insurance policies or contracts that are issued or delivered in the State; and

28 (ii) health maintenance organizations that provide hospital,  
29 medical, or surgical benefits to individuals or groups under contracts that are issued or  
30 delivered in the State.

1           (2) An insurer, a nonprofit health service plan, or a health maintenance  
2 organization that provides coverage for prescription drugs through a pharmacy benefits  
3 manager is subject to the requirements of this section.

4           (c) An entity subject to this section may not impose a step therapy or fail–first  
5 protocol on an insured or AN enrollee if:

6           (1) the step therapy drug has not been approved by the U.S. Food and Drug  
7 Administration for the medical condition being treated; or

8           (2) a prescriber provides supporting medical information to the entity that  
9 a prescription drug covered by the entity:

10           (i) was ordered by a prescriber for the insured or enrollee within the  
11 past 180 days; and

12           (ii) based on the professional judgment of the prescriber, was  
13 effective in treating the insured’s or enrollee’s disease or medical condition.

14           (d) **[This] SUBSECTION (C) OF THIS** section may not be construed to require  
15 coverage for a prescription drug that is not:

16           (1) covered by the policy or contract of an entity subject to this section; or

17           (2) otherwise required by law to be covered.

18           **(E) AN ENTITY SUBJECT TO THIS SECTION MAY NOT IMPOSE A STEP**  
19 **THERAPY OR FAIL–FIRST PROTOCOL ON AN INSURED OR AN ENROLLEE FOR A**  
20 **PRESCRIPTION DRUG APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION**  
21 **IF:**

22           **(1) THE PRESCRIPTION DRUG IS USED TO TREAT THE INSURED’S OR**  
23 **ENROLLEE’S STAGE FOUR ADVANCED METASTATIC CANCER; AND**

24           **(2) USE OF THE PRESCRIPTION DRUG IS:**

25           **(I) CONSISTENT WITH ~~BEST PRACTICES~~ THE U.S. FOOD AND**  
26 **DRUG ADMINISTRATION–APPROVED INDICATION OR THE NATIONAL**  
27 **COMPREHENSIVE CANCER NETWORK DRUGS & BIOLOGICS COMPENDIUM**  
28 **INDICATION FOR THE TREATMENT OF STAGE FOUR ADVANCED METASTATIC**  
29 **CANCER; AND**

30           **(II) SUPPORTED BY PEER–REVIEWED MEDICAL LITERATURE.**

**SENATE BILL 919**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
2 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or  
3 after October 1, 2017.

4           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2017.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.