

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1290 (Delegate Sample-Hughes, *et al.*)  
Health and Government Operations

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Health Insurance and Pharmacy Benefits Managers - Reimbursement for and  
Provision of Pharmacy Services

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This bill authorizes a pharmacist or a pharmacy to decline to dispense a prescription drug or provide a pharmacy service to a “member” if the amount reimbursed by a specified entity is less than the pharmacy acquisition cost. A “member” is an individual entitled to health care benefits for prescription drugs or pharmacy services under a policy or contract issued or delivered in Maryland; the bill applies to reimbursement provided by an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) that provides such coverage, including through a pharmacy benefits manager (PBM). A PBM may not reimburse a pharmacy or a pharmacist for a product or pharmacy service in an amount less than the amount the PBM reimburses itself or an affiliate for the same product or service.

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Fiscal Summary

**State Effect:** The bill does not materially affect State finances or operations, including the Maryland Insurance Administration (MIA) and the State Employee and Retiree Health and Welfare Benefits Program.

**Local Effect:** None.

**Small Business Effect:** Meaningful.

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Analysis

**Current Law:** A PBM is a business that administers and manages prescription drug benefit plans for purchasers. A PBM must register with MIA prior to providing pharmacy benefits management services. The Insurance Commissioner is authorized to examine the

affairs, transactions, accounts, and records of a registered PBM at the PBM's expense. A PBM is prohibited from shipping, mailing, or delivering prescription drugs or devices to a person in the State through a nonresident pharmacy unless the nonresident pharmacy holds a nonresident pharmacy permit from the State Board of Pharmacy.

Before entering into a contract with a purchaser, a PBM must disclose certain information. A PBM must offer to provide a purchaser with any rebate-sharing contracts the PBM has with drug manufacturers. A PBM must also provide certain disclosures prior to entering into a contract with a pharmacy or pharmacist. A PBM must take certain actions prior to placing a drug on a maximum allowable cost (MAC) list and must provide pharmacies with a process to appeal, investigate, and resolve disputes regarding MAC pricing.

**Background:** According to the National Community Pharmacists Association, PBM contracts frequently require community pharmacists to dispense some drugs at a financial loss, often due to imposition of MAC, which acts as a cap on pharmacy reimbursement. In 2016, Mississippi enacted legislation that permits a pharmacy to refuse to provide drugs or services if it is not paid more than acquisition cost. If a pharmacy declines to dispense a drug, the pharmacy must provide the customer with information on where his or her prescription can be filled.

**Small Business Effect:** Under the bill, a small business pharmacy cannot be required to sell a prescription drug at a price less than the pharmacy's cost for the drug and may receive greater reimbursement for certain products or pharmacy services.

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### **Additional Information**

**Prior Introductions:** HB 1103 of 2017 received a hearing in the House Health and Government Operations Committee and was later withdrawn. Its cross file, SB 1055, was withdrawn without a hearing.

**Cross File:** SB 1074 (Senator Mathias) - Finance.

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

**Fiscal Note History:** First Reader - March 6, 2018  
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