

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 736

(Delegate Bromwell, *et al.*)

Health and Government Operations

Finance

Pharmacy Benefits Managers - Pharmacies and Pharmacists - Information on
and Sales of Prescription Drugs

This bill establishes that a pharmacy benefits manager (PBM) may not prohibit a pharmacy or pharmacist from (1) providing a beneficiary with information regarding the retail price for a prescription drug or the amount of the beneficiary's cost share for the drug; (2) discussing the retail price or cost share with the beneficiary; or (3) if the requirements for a therapeutic interchange are met, selling the more affordable alternative to the beneficiary. The bill may not be construed to alter statutory requirements for a therapeutic interchange.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2019 from the \$125 rate and form filing fee. Review of any filings can be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: "Therapeutic interchange" means any change from one prescription drug to another, excluding specified circumstances. A PBM may only request a therapeutic interchange if it is for medical reasons that benefit the beneficiary or will result in financial savings and benefits to the purchaser or the beneficiary.

Before making a therapeutic interchange, a PBM or its agent must obtain authorization from a prescriber and make specified disclosures to the prescriber. When soliciting a therapeutic interchange from a prescriber, a PBM may not make a claim that the therapeutic interchange will save the purchaser money unless the claim can be substantiated. If a PBM receives payment for making a therapeutic interchange that is not reflected in cost savings to the purchaser, the payment must be communicated to the prescriber at the time of the therapeutic interchange solicitation.

If a therapeutic interchange occurs, a PBM must make specified disclosures to the beneficiary and include with the new prescription drug dispensed a patient package insert about potential side effects and a toll-free number to communicate with the PBM. A PBM must maintain a toll-free telephone number for prescribers, pharmacy providers, and beneficiaries to request information about a therapeutic interchange.

A PBM must cancel and reverse a therapeutic interchange on written or verbal instructions from a prescriber, the beneficiary, or the beneficiary's representative. If a therapeutic interchange is reversed, a PBM must obtain a prescription for and dispense the originally prescribed drug and charge the beneficiary no more than one copayment. A PBM may not be required to cancel and reverse a therapeutic interchange if the beneficiary is unwilling to pay a higher copayment or coinsurance.

Under specified circumstances regarding a therapeutic interchange through a mail order pharmacy, a PBM must provide an appropriate quantity of replacement prescription drugs at a local community pharmacy at no additional cost to the beneficiary.

Additional Information

Prior Introductions: None.

Cross File: SB 576 (Senator Klausmeier) - Finance.

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

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