Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 931 (Senator Hayes)

Finance Health and Government Operations

Maryland Medical Assistance Program and Health Insurance - Specialty Drugs - Definition

This emergency bill prohibits the Secretary of Health from considering drugs prescribed to treat diabetes, HIV, or AIDS to be specialty drugs for the purpose of providing services under Medicaid. The bill also excludes a prescription drug prescribed to treat diabetes, HIV, or AIDS from the definition of "specialty drug" with respect to insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers). A carrier may not impose a copayment or coinsurance requirement on a prescription drug prescribed to treat diabetes, HIV, or AIDS that exceeds $150 for up to a 30-day supply of the drug. This cap must be annually adjusted for inflation, as specified.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) in FY 2020. Review of filings can likely be handled with existing MIA resources. Potential increase in Medicaid expenditures beginning in FY 2020, as discussed below. Federal matching revenues increase accordingly. No material impact on the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: Potential increase in prescription drug expenditures to the extent the bill reduces the ability to manage specialty drug costs for diabetes, HIV, and AIDS. Any impact is dependent on current treatment of these drugs under prescription drug plans. Potential increase in health insurance premiums for local governments that purchase fully insured plans due to the limitation on allowable cost sharing. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law: Chapter 422 of 2014 prohibits carriers from imposing a copayment or coinsurance requirement on a covered specialty drug that exceeds $150 for up to a 30-day supply. This limit must be increased annually to reflect medical care inflation. A carrier may provide coverage for specialty drugs through a managed care system.

Generally, a carrier may require a covered specialty drug to be obtained through a designated pharmacy or other authorized source or a pharmacy participating in the carrier's network, if the carrier determines that pharmacy meets the carrier's performance standards and accepts the carrier's network reimbursement.

"Specialty drug" means a prescription drug that (1) is prescribed for an individual with a complex, chronic, or rare medical condition; (2) costs $600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires a difficult or unusual process of delivery to the patient in the preparation, handling, storage, inventory, or distribution of the drug or requires enhanced patient education, management, or support, beyond those required for traditional dispensing before or after administration of the drug.

A pharmacy registered under § 340B of the federal Public Health Services Act may apply to a carrier to be a designated pharmacy for the purpose of enabling the pharmacy's patients with HIV, AIDS, or hepatitis C to receive the copayment or coinsurance maximum if the pharmacy is owned by a federally qualified health center that provides integrated and coordinated medical and pharmaceutical services to HIV positive, AIDS, and hepatitis C patients and the prescription drugs are covered specialty drugs for the treatment of HIV, AIDS, or hepatitis C.

Under Medicaid managed care organization (MCO) regulations (COMAR 10. 67.06.04), "specialty drug" is defined the same as under the Insurance Article. Any option for accessing pharmacy services by mail order may be implemented by an MCO only at the request of the enrollee, except for when the drug is a specialty drug. If an enrollee subsequently requests to use a retail pharmacy for specialty drugs, the MCO may not limit the enrollee to the use of a mail-order pharmacy. Effective January 1, 2020, antiretrovirals for the treatment of HIV were carved in the HealthChoice MCO benefit from the Medicaid fee-for-service (FFS) program. Concurrently, $155.7 million was shifted from FFS to MCO rates.

State Fiscal Effect: As the Medicaid FFS program does not have any restrictions related to reimbursement for specialty drugs, there is no fiscal impact on FFS Medicaid. However, specialty drug restrictions currently apply to the nine HealthChoice MCOs. Specialty drugs may be delivered to an MCO enrollee by mail order at the MCO's discretion, though an enrollee may opt out upon request. Mail-order delivery may result in cost savings to the

MCO. To the extent a reduction in mail-order delivery of prescription drugs used to treat diabetes, HIV, and AIDS increases costs for MCOs, Medicaid expenditures increase by an indeterminate amount beginning in fiscal 2020. Federal fund revenues increase accordingly.

The Department of Budget and Management (DBM) advises that the State Employee and Retiree Health and Welfare Benefits Program currently does not classify drugs to treat diabetes as specialty drugs and only three drugs used in the management of HIV have been classified as specialty drugs for which there were only four users in 2019. Furthermore, DBM notes that all copayments for prescriptions under the program are currently less than $150 for a 30-day supply. Thus, there is no material impact on the program.

Small Business Effect: Small business community pharmacies benefit from the ability to potentially provide specialty drugs used to treat diabetes, HIV, and AIDS that are currently provided to individuals via mail order or specialty pharmacies.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 652 (Delegate Kipke, *et al.*) - Health and Government Operations.

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

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