HB 905

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 905 (Delegate Shetty, *et al.*)
Health and Government Operations

Prescription Drug Benefits - Use of Real-Time Benefit Check Technology

This bill requires, beginning January 1, 2021, that a prescriber or dispenser, at the point of prescribing or dispensing, must have access to and use, as appropriate, technology that provides "patient-specific prescription drug benefit and cost information" through a real-time standard transaction. Payors (including pharmacy benefit managers (PBMs)), providers, pharmacies, and other organizations involved in prescribing, dispensing, paying for, and exchanging information about prescription drugs must take any actions necessary to facilitate access to and use of such technology. Also, beginning January 1, 2021, electronic health records (EHRs) must display, through real-time integration, the most up-to-date patient-specific eligibility information, as specified.

Fiscal Summary

State Effect: Expanding use of real-time benefit check (RTBC) technology may decrease expenditures for the State Employee and Retiree Health and Welfare Benefits Program, though any specific impact is indeterminate. To the extent costs to comply with the bill incurred by PBMs are passed on to Medicaid, Medicaid expenditures increase by an indeterminate amount beginning in FY 2021, as discussed below. Federal fund revenues increase accordingly.

Local Effect: Local health departments must comply with the bill's requirements, but any such impact is indeterminate. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: "Patient-specific prescription drug benefit and cost information" means the type of prescription drug coverage offered to a patient by the patient's payor and any out-of-pocket costs that may be incurred by the patient under the coverage, including the patient's copayment, coinsurance, and deductible requirements. "Payor" means an insurer, nonprofit health service plan, health maintenance organization, or PBM.

EHRs must display information on a health benefit plan's coverage and benefits, formulary, cost-sharing requirements, therapeutically equivalent alternatives, as appropriate, and prior authorization requirements.

Requests for patient-specific prescription drug benefit and cost information and any responses to those requests must be sent and received in real time. The real-time exchange of information must be facilitated by using health care industry standards developed by an organization accredited by the American National Standards Institute.

EHR vendors, payors, providers, pharmacies, and other organizations must partner with intermediaries to ensure the delivery of accurate patient-specific prescription drug benefit and cost information, as well as cash pay information for prescription drugs. Intermediaries must be capable of supporting and using a standard transaction that meets these requirements. The technology must be capable of showing information on patient financial and resource assistance when available for the prescription drug selected by a provider. Prescription drug benefit and cost information displayed must include all options available to the patient for covering the cost of a prescription drug, as specified.

A payor may not prohibit the display of patient-specific prescription drug benefit and cost information at the point of prescribing that reflects other available options for covering the cost of a prescription drug.

The bill may not be construed to interfere with a patient's choice of prescription drug cost coverage nor to prohibit the right of a patient to choose whether to use their prescription drug benefit when obtaining a prescription drug.

A provider must communicate to a patient the most therapeutically appropriate treatment for the patient's given diagnosis and, when appropriate, specified prescription drug cost information.

Current Law: Chapter 166 of 2011 established the Prescription Drug Monitoring Program (PDMP) to assist with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II through V controlled dangerous

substances. When a dispenser fills a prescription for a monitored drug, the dispenser must electronically submit to PDMP identifying information for the patient, prescriber, dispenser, and drug within three business days of dispensing.

The Maryland Health Care Commission designated the Chesapeake Regional Information System for our Patients (CRISP) as the statewide health information exchange (HIE) in 2009, and the infrastructure became operational in 2010. An HIE allows clinical information to move electronically among disparate health information systems. CRISP is the platform for PDMP. CRISP offers tools aimed at improving the facilitation of care for the region's health care providers. Consumers can opt out of having their information included in HIE.

Background: According to CoverMyMeds, RTBC is a technology innovation that displays prescription benefit details, such as patient out-of-pocket cost, drug alternatives, and prior authorization information, enabling providers to make informed medication choices at the point of prescribing. RTBC facilitates discussion between a provider and patient about the most clinically appropriate and affordable medication for the patient. By providing true price and coverage transparency, the patient is less likely to be surprised at the pharmacy and more likely to remain adherent. There is currently no published RTBC standard; however, a standard is being developed by the National Council for Prescription Drug Programs.

Cost sharing for prescription drugs under the Medicaid program is extremely low. In the fee-for-service Medicaid program, there is a $1.00 copayment for adults for selected generic or preferred brand-name drugs, and a $3.00 copayment for adults for other brand-name drugs. Pharmacy copayments are waived for enrollees younger than age 21 and pregnant women. Five managed care organizations (MCOs) have also waived pharmacy copayments for adults, and two of the MCOs that have not waived such copayments have no copayment for generic drugs. A Medicaid enrollee must be allowed to fill a prescription even if the copayment is not paid.

State Expenditures: According to the Department of Budget and Management (DBM), nearly 23% of all providers treating individuals covered by the State Employee and Retiree Health and Welfare Benefits Program are currently using RTBC technology. While the fiscal impact of the bill on the program is indeterminate, DBM reports that more than 47,000 prescription claims in the last quarter (10% of total prescription claims) were redirected to a lower-cost or covered alternative prescription drug under the program's formulary using this technology. Thus, wider implementation of such technology likely reduces prescription drug costs for the program.

The bill's definition of payor does not include Medicaid, but it does include PBMs, with which the nine HealthChoice MCOs contract. The Maryland Department of Health (MDH)

advises that, in order to comply with the bill, Medicaid expenditures increase by $18.0 million (50% general funds, 50% federal funds) in fiscal 2021 to make one-time-only programmatic changes to each of the nine Medicaid MCO pharmacy vendors (at a cost of $2.0 million each). MDH further advises that, once the real-time standard transactions are operational (as required by January 1, 2021), Medicaid will incur significant ongoing operating costs, with actual costs dependent on the number of transactions. The Department of Legislative Services disagrees and notes that all PBMs in Maryland must comply with the bill's requirements for *all* contracts. Thus, Medicaid MCOs would not be solely responsible for the cost of such upgrades, though their overall costs to contract with PBMs may increase to the extent such costs are passed on to MCOs.

Small Business Effect: Small business health care providers and pharmacies must have access to and use specified technology by January 1, 2021.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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