

HOUSE BILL 1006

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By: **Delegate Kipke**

Introduced and read first time: February 10, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Network Adequacy, Credentialing, and**
3 **Reimbursement**

4 FOR the purpose of requiring a pharmacy benefits manager or purchaser to maintain a
5 reasonably adequate and accessible network of pharmacies; prohibiting a pharmacy
6 benefits manager or purchaser from requiring a pharmacy or pharmacist to obtain
7 or maintain certain accreditation, certification, or credentialing as a condition for
8 participating in the pharmacy benefits manager's or purchaser's network; altering
9 certain reimbursement requirements for pharmacy benefits managers and
10 purchasers; authorizing a pharmacy or pharmacist to decline to dispense a
11 prescription drug or provide a pharmacy service if reimbursement will be less than
12 the pharmacy acquisition cost; and generally relating to pharmacy benefits
13 managers.

14 BY adding to

15 Article – Insurance

16 Section 15–1611.2

17 Annotated Code of Maryland

18 (2017 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Insurance

21 Section 15–1628 and 15–1628.3

22 Annotated Code of Maryland

23 (2017 Replacement Volume and 2021 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

25 That the Laws of Maryland read as follows:

26 **Article – Insurance**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 15-1611.2.

2 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PHARMACY BENEFITS
3 MANAGER OR PURCHASER SHALL MAINTAIN A REASONABLY ADEQUATE AND
4 ACCESSIBLE PHARMACY BENEFITS MANAGER OR PURCHASER NETWORK
5 CONSISTING OF CONTRACTED PHARMACIES THAT PROVIDE CONVENIENT PATIENT
6 ACCESS TO PHARMACY SERVICES.

7 (B) (1) THE COMMISSIONER SHALL ESTABLISH CRITERIA FOR
8 DETERMINING THE ADEQUACY OF A PHARMACY BENEFITS MANAGER'S OR
9 PURCHASER'S NETWORK THAT INCLUDES:

10 (I) A DETERMINATION OF THE PURCHASERS THAT CONTRACT
11 WITH THE PHARMACY BENEFITS MANAGER AND GEOGRAPHIC LOCATION IN WHICH
12 THE PURCHASERS OFFER COVERAGE FOR PRESCRIPTION DRUG BENEFITS;

13 (II) A CALCULATION FOR DETERMINING THE REASONABLE
14 DISTANCE FROM A PATIENT'S HOME TO A CONTRACTED PHARMACY; AND

15 (III) A REVIEW OF COMPENSATION PROGRAMS TO ENSURE THAT
16 THE REIMBURSEMENT PAID TO PHARMACIES AND PHARMACISTS FOR PHARMACY
17 SERVICES IS FAIR AND REASONABLE.

18 (2) A MAIL ORDER PHARMACY MAY NOT BE INCLUDED IN A
19 DETERMINATION OF A PHARMACY BENEFITS MANAGER'S OR PURCHASER'S
20 NETWORK ADEQUACY.

21 (C) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS
22 SECTION.

23 15-1628.

24 (a) (1) At the time of entering into a contract with a pharmacy or a pharmacist,
25 and at least 30 working days before any contract change, a pharmacy benefits manager
26 shall disclose to the pharmacy or pharmacist:

27 (i) the applicable terms, conditions, and reimbursement rates;

28 (ii) the process and procedures for verifying pharmacy benefits and
29 beneficiary eligibility;

30 (iii) the dispute resolution and audit appeals process; and

1 (iv) the process and procedures for verifying the prescription drugs
2 included on the formularies used by the pharmacy benefits manager.

3 (2) (i) This paragraph does not apply to a requirement that a specialty
4 pharmacy obtain national certification to be considered a specialty pharmacy in a pharmacy
5 benefits manager's or [carrier's] **PURCHASER'S** network.

6 (ii) For purposes of credentialing a pharmacy or a pharmacist as a
7 condition for participating in a pharmacy benefits manager's **OR PURCHASER'S** network
8 [for a carrier], the pharmacy benefits manager **OR PURCHASER** may not:

9 1. require a pharmacy or pharmacist to:

10 **A.** renew credentialing more frequently than once every 3
11 years; or

12 **B. OBTAIN OR MAINTAIN ACCREDITATION,**
13 **CERTIFICATION, OR CREDENTIALING THAT IS INCONSISTENT WITH, MORE**
14 **STRINGENT THAN, OR IN ADDITION TO STATE REQUIREMENTS FOR LICENSURE OR**
15 **RELEVANT FEDERAL OR STATE STANDARDS; OR**

16 2. charge a pharmacy or pharmacist a fee for the initial
17 credentialing or renewing credentialing.

18 (b) (1) Each contract form or an amendment to a contract form between a
19 pharmacy benefits manager and a pharmacy may not become effective unless at least 30
20 days before the contract form or amendment to the contract form is to become effective, the
21 pharmacy benefits manager files an informational filing with the Commissioner in the
22 manner required by the Commissioner that includes a copy of the contract form or
23 amendment to the contract form.

24 (2) The Commissioner is not required to review the informational filing to
25 evaluate whether a contract form or amendment to a contract form is in violation of this
26 subtitle at the time the informational filing is made.

27 (3) The Commissioner may review and disapprove a contract form or
28 amendment to a contract form at any time after the contract form or amendment to the
29 contract form has been submitted as part of an informational filing.

30 **(C) THE COMMISSIONER MAY USE A CONTRACT FILED UNDER SUBSECTION**
31 **(B) OF THIS SECTION IN MAKING A DETERMINATION OF WHETHER A PHARMACY**
32 **BENEFITS MANAGER'S OR PURCHASER'S NETWORK IS ADEQUATE AS REQUIRED**
33 **UNDER § 15-1611.2 OF THIS SUBTITLE.**

34 15-1628.3.

1 (a) A pharmacy benefits manager or a [carrier] **PURCHASER** may not directly or
2 indirectly charge a contracted pharmacy, or hold a contracted pharmacy responsible for, a
3 fee or performance-based reimbursement related to the adjudication of a claim or an
4 incentive program **THAT IS NOT SPECIFICALLY ENUMERATED BY THE PHARMACY**
5 **BENEFITS MANAGER OR PURCHASER AT THE TIME OF CLAIM PROCESSING.**

6 (b) A pharmacy benefits manager or [carrier] **PURCHASER** may not make or
7 allow any reduction in payment for pharmacy services by a pharmacy benefits manager or
8 [carrier] **PURCHASER** or directly or indirectly reduce a payment for a pharmacy service
9 under a reconciliation process to an effective rate of reimbursement, including generic
10 effective rates, brand effective rates, direct and indirect remuneration fees, or any other
11 reduction or aggregate reduction of payments.

12 (c) **IF THE AMOUNT REIMBURSED BY A PHARMACY BENEFITS MANAGER OR**
13 **PURCHASER FOR A PRESCRIPTION DRUG OR PHARMACY SERVICE IS LESS THAN THE**
14 **PHARMACY ACQUISITION COST FOR THE SAME PRESCRIPTION DRUG OR PHARMACY**
15 **SERVICE, THE PHARMACY OR PHARMACIST MAY DECLINE TO DISPENSE THE**
16 **PRESCRIPTION DRUG OR PROVIDE THE PHARMACY SERVICE TO A BENEFICIARY.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
18 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or
19 after January 1, 2023.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 January 1, 2023.