

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1004
Finance

(Senator Eckardt)

Health Insurance - Pharmacy Benefits Managers - Reimbursement Amounts

This bill prohibits a pharmacy benefits manager (PBM) from reimbursing a pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the National Average Drug Acquisition Cost (NADAC) at the time the drug is administered or dispensed plus 10% of that cost. If NADAC is not available at the time a drug is administered or dispensed, a PBM may not reimburse in an amount that is less than the wholesale acquisition cost of the drug. The Insurance Commissioner may (1) require that a PBM pay a fee, to be determined by the Commissioner, in addition to the minimum reimbursement required and (2) adopt regulations to carry out the bill that include a process for periodically reviewing and recalculating the minimum reimbursement amount.

Fiscal Summary

State Effect: Expenditures for the State Employee and Retiree Health and Welfare Benefits Program likely increase by an estimated \$20.0 million in FY 2023 and \$40.0 million annually thereafter, as discussed below. Any additional impact on the Maryland Insurance Administration (MIA) can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: To the extent the cost of pharmacy services increases, local expenditures for prescription drug coverage increase by an indeterminate amount.

Small Business Effect: Meaningful.

Analysis

Current Law: A PBM is a business that administers and manages prescription drug benefit plans. A PBM must register with MIA prior to providing pharmacy benefits management services.

A PBM or carrier may not directly or indirectly charge a contracted pharmacy, or hold a contracted pharmacy responsible for, a fee or performance-based reimbursement related to the adjudication of a claim or an incentive program. A PBM or carrier may not make or allow any reduction in payment for pharmacy services by a PBM or carrier or directly or indirectly reduce a payment for a pharmacy service under a reconciliation process to an effective rate of reimbursement, including generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payments.

State Expenditures: The Department of Budget and Management (DBM) advises that the State Employee and Retiree Health and Welfare Benefits Program is significantly impacted by the bill's provision establishing a minimum reimbursement level of NADAC plus 10%, as well as an additional fee to be determined by the Commissioner. The program has negotiated dispensing fees of \$0.35 and \$0.50 per script for the active employee and retiree populations, respectively. Approximately 1,860,800 prescriptions are filled annually under the program. Thus, assuming the Commissioner sets a dispensing fee equal to the current Centers for Medicare and Medicaid Services professional dispensing fee of \$10.49, expenditures for the program increase by more than \$18.6 million annually for additional dispensing fees alone. In total, DBM advises that the bill's provisions increase costs by nearly \$40.0 million in calendar 2023; however, this cost estimate does not account for any rebate impact. To the extent that the Commissioner sets a lower fee, expenditures decrease accordingly.

Small Business Effect: Small business pharmacies receive additional reimbursement under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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