

SB1021.Payment.MPhA.pdf

Uploaded by: Aliyah Horton

Position: FAV



Date: March 13, 2024

To: The Honorable Pamela Beidle, Chair

From: Aliyah N. Horton, FASAE, CAE, Executive Director, MPhA, 240-688-7808

Cc: Members, Senate Finance Committee

Re: FAVORABLE - SB 1012- Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

The Maryland Pharmacists Association (MPhA) urges a favorable report for **SB 1012- Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers.**

Pharmacies must be paid for the prescriptions they dispense and the cost of dispensing - based on real transparent data – the National Average Drug Acquisition Cost (NADAC) plus a \$10.67 dispensing fee based on the states own cost of dispensing survey. This payment model matches the payment structure in the Fee for Service program.

WHAT WE KNOW

The State of Maryland paid a Professional Dispensing Fee on each MCO pharmacy claim an AVERAGE of \$0.67 FOR CY 2021 AND \$0.59 FOR CY 2022! It's unconscionable.

The state, based on the PBM administration of its pharmacy benefit, has actively underpaid pharmacies approximately \$78.2 million dollars per year.

We have consistently raised concerns about the role of PBMs, including spread pricing. Spread pricing is the difference between how much a PBM reimburses the pharmacy for a drug and the higher price they charge the plan (or state) for the same prescription.

In 2019, due to pharmacy community advocacy the Department of Health investigated and determined that there was an average spread of \$6.96 in the Medicaid MCO program. **The PBMs were fleecing approximately \$72 million from the state on the backs of pharmacies.** What happened as a result...

The state eliminated spread pricing. Little was done close the under-reimbursement gap and sustain pharmacies. There was a brief time where limited enhanced dispensing fees were provided for rural pharmacies. That program is over.

This payment model would not be accepted for any other healthcare provider. Other providers have options to cap Medicaid patients and even opt-out of the program. Pharmacy contracts DO NOT allow that option.

If the state is requiring pharmacies to provide a service, then the state should pay what they have determined and validated (as they have done in the Fee for Service Program) to be the cost of the service.

Pharmacies provide a safe space for accessible healthcare providers, pharmacists, to serve our communities. They are also a business that by law cannot operate like any other business. They are not allowed to:

- pick and choose customers;
- decide whether to take a contract or not;
- refuse to dispense if they can't make a profit; or
- require a Medicaid patient to pay for their medication if they say they don't have money.

There has been speculation regarding pharmacy net closings and openings in Maryland. The reality is pharmacies are being put on the market, medications are not being stocked and therefore patients are not being served. This is happening in communities that are most in need.

The National Community Pharmacy Association (NCPA) issued a [press release on a national survey](#) that was conducted in February.

Survey Lowlights:

- 32 percent of all respondents say they are considering closing their doors in 2024 because of the cash crunch.
- Ninety-three percent say they may drop out of Medicare Part D in 2025.
- *In 2023, there were over 300 independent pharmacy net closures — almost one less pharmacy open for patients a day — and there are approximately 2,200 fewer retail pharmacies than there were four years ago. Pharmacy owners are doing everything than can to avoid closing their doors. Many are cutting hours, reducing staff, and eliminating services. (Doug Hoey, NCPA CEO)*
- Nearly 70 percent, according to the survey, have had to dip into their personal savings.

PLEASE TAKE ACTION. PAY PHARMACIES! The data is there for you to decide.

MPhA urges a favorable report for **SB 1012- Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers**

SB-1021 Testimony.pdf

Uploaded by: Alonzo Washington

Position: FAV

ALONZO T. WASHINGTON
Legislative District 22
Prince George's County

Finance Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in support of SB-1021 Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

There is a looming threat of mass pharmacy closures hanging over our state this year. Pharmacy chains and independent stores report that they risk being unable to pay their bills because of the current structure of Medicaid. They are required to supply those under the program with their prescriptions but are not getting properly reimbursed by the state for their services.

The current rate is 40 to 50 cents per prescription, when all fees and labor costs are considered, it should be closer to 10 dollars per prescription. This amounts to a \$72 million loss every year to our pharmacies, putting them in a precarious economic position.

This bill looks to amend the course that we have taken and establish proper reimbursement rates that can avoid these mass closures. This is of the utmost importance to our state because of where closings would cluster. Our rural communities are in the highest danger of having pharmacy deserts since they serve a small population and can rarely upset the cost through other revenue services. Furthermore, our Black and brown communities are also in danger, as Baltimore City already sees no pharmacies in a 3-mile radius in many of their neighborhoods.

The state has created inefficiency in the market by its actions of eliminating spread pricing and mandating service, and now it is time to correct this mistake. 27 independent or chain pharmacies have closed in the past ten years, and this bill can stop the bleeding. 32% of pharmacies have considered closing on a nationwide level, and 98% are considering leaving Medicaid. I believe this bill would prevent that from happening.

For these reasons, I respectfully request a favorable committee report on SB 1021.

2024-03-12 SB 1021 MCO NADAC^M EPIC Testimony.pdf

Uploaded by: Caitlin McDonough

Position: FAV



Testimony offered on behalf of:
EPIC PHARMACIES, INC.

IN SUPPORT OF:

SB 1021 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

Hearing 3/12 at 1:00PM

EPIC Pharmacies Supports SB 1021 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers.

To continue to provide services to the citizens of Maryland, EPIC Pharmacies believes it is essential to have a fair and transparent pricing structure for Medicaid Managed Care Organizations (MCO's). The current pricing structure unfairly allows PBMs to reimburse the majority of MD MCO prescription claims below the cost retail pharmacies must pay to acquire the medication. **In 2023, 64.8% of the prescriptions I filled for MD Medicaid MCOs were paid below my cost for the drug and 94.3% were paid below my cost to dispense.** Medicaid Fee for Service (FFS) on the other hand, is federally obligated to survey and evaluate the prescription market in Maryland, and to reimburse pharmacies based upon the actual cost to acquire and dispense those medications. This has been accomplished by an independent accounting firm who continuously surveys the actual medication costs from real invoices to publish the National Average Drug Acquisition Cost or NADAC and by the State surveying dispensing costs periodically to determine the FFS dispensing fee. Both NADAC and the MD FFS dispensing fee (currently \$10.67) are based in reality and are not beholden to generating profit for PBM executives or stockholders.

Pharmacies cannot continue to provide uncompensated care to the patients within these Medicaid MCO plans. Last year my small pharmacy dispensed 3736 prescriptions to patients from five Maryland Medicaid MCO plans. We were reimbursed a total of \$168,715.29 for those claims which sounds like a lot until you take into account our cost to provide those prescriptions and accompanying unfunded services was \$206,018.30, **resulting in a loss to the pharmacy of \$37,303.01 for 2023!** Why should community pharmacies subsidize the state of Maryland's Medicaid MCO plans? I can tell you that many like me are actively looking for ways to stop bearing the burden of donating these resources to the state and that will likely result in less care. If we don't find a way to fairly pay pharmacies, we will certainly see a decrease in the pharmacies providing care to our communities.

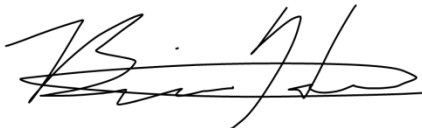
We had high hopes for the MCO study that was commissioned by legislation in 2023 and was to be completed in October of last year. When the study came out in December, we were disappointed by the failure of the department to make any recommendations or even meet the main charges of the study. There was little transparency in the study design and we are still not sure if the PBM owned pharmacy claims for expensive specialty drugs filled through mail order were even included in the calculations. While not addressing all of the actual study charges, they were happy to look at 2 years of pharmacy opening and closing data during the pandemic to imply that pharmacies are healthy and being paid fairly. The reality is that since 2018, we have

seen a loss of 63 independent pharmacies and 71 chain pharmacies in the state of MD. Even if you go back further to 2013, there are now 4 fewer chains and 27 fewer independent pharmacies in MD communities that have seen population growth over the time period. Industry experts believe that there will be more pharmacy closures in 2024 than we have seen in decades. These low Medicaid MCO reimbursements certainly play into those decisions for corporations and independent owners.

When the Maryland Medicaid Fee for Service program converted from WAC based pricing to NADAC based pricing, the FFS Division Chief told stake holders that NADAC pricing would more equitably spread State of Maryland funding to all stakeholders rather than the previous system, where a few stakeholders had outsized gains to the detriment of the others. We could not agree with him more. That conversion in price methodology was considered net neutral for MD and we believe that if done correctly, this change in the MCO program could also be neutral to the State budget contrary to the findings of a failed MCO study.

As such, EPIC Pharmacies recommends a favorable report on HB 1021 because we need your help.

Thank you,

A handwritten signature in black ink, appearing to read 'Brian M. Hose', written over a horizontal line.

Brian M. Hose, PharmD
EPIC PharmPAC Chairman
301-432-7223
brian.hose@gmail.com

SB 1021 - FIN - MDH - LOO.pdf

Uploaded by: Jason Caplan

Position: UNF



DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 13, 2024

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE:Senate Bill 1021 – Pharmacy Benefits Administration – Maryland Medical Assistance Program and Pharmacy Benefits Managers - Letter of Opposition

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of opposition for Senate Bill (SB) 1021 – Pharmacy Benefits Administration – Maryland Medical Assistance Program and Pharmacy Benefits Managers. SB 1021 requires the Maryland Medical Assistance Program (Medicaid) and Managed Care Organizations (MCOs) that use a Pharmacy Benefits Manager (PBM) to follow certain guidelines. This legislation applies to all pharmacies except (1) those that are owned by, or under the same corporate affiliation, as a PBM, or (2) mail order pharmacies.

SB 1021 will require Medicaid to set the minimum reimbursement rate for drug products with a generic equivalent to be equal to the National Average Drug Acquisition Cost (NADAC) of the generic product plus the Department's Fee-for-Service (FFS) professional dispensing fee. This bill also creates a reimbursement requirement for brand name drug products. If a prescriber requires a specific brand name drug, the reimbursement level must be based on the NADAC amount of the product plus the FFS dispensing fee.

If enacted, SB 1021 will reverse the General Assembly's prior policy direction¹ to have MCOs administer the Medicaid pharmacy benefit to ensure access to prescription drugs for Marylanders and to manage skyrocketing drug costs. Following regulatory changes in 2016 under the Affordable Care Act, Maryland Medicaid's FFS began reimbursing for drugs using actual acquisition costs (AAC). Maryland FFS's pharmacy reimbursement utilizes NADAC as a benchmark for determining AAC. Through this approach, the Medicaid reimbursement rate is the NADAC rate or the provider's Usual and Customary charges, whichever is lower. If enacted, the Department estimates that HB 880 will cost \$79.9 million in total funds (\$39.9 million federal funds, \$39.9 million State general funds) in fiscal year 2025 alone.² These funds are unbudgeted

¹ HB 1290 (2015); report available at:

<https://mmcp.health.maryland.gov/Documents/JCRs/MCOPharmacynetworksJCRfinal12-15.pdf>

² <https://health.maryland.gov/mmcp/Documents/JCRs/2023/MCOPharmacyclaimsJCRfinal10-23.pdf>

and the five-year cost of this bill will be approximately \$415.7 million (\$217.8 million federal funds, \$217.8 million state general funds).³

The Department further notes that there have not been substantial reductions to Medicaid's pharmacy network. According to a report provided by the Board of Pharmacy, in calendar year (CY) 2021, 20 pharmacies opened and enrolled in Maryland Medicaid. In contrast, nine pharmacies closed during this time. In CY 2022, 20 pharmacies opened and enrolled in Medicaid and six closed.⁴ Medicaid notes that none of these closures were in rural areas. Maryland Medicaid has seen growth in pharmacy enrollment outweigh any closures. Additionally, the federal government has established access standards. The HealthChoice program has met these requirements.

Finally, the Department notes that dispensing fees paid for by MCOs align with those paid by commercial payers. Historically, commercial dispensing fees are less than \$1 per pharmacy claim.⁵ In CY 2021, the average commercial dispensing fee was less than \$2 per claim.⁶ In CY 2021, the average dispensing fee paid for by MCOs was \$0.67 and \$0.59 in CY 2022.

Additionally, SB 1021 exempts pharmacies owned, or under the same corporate affiliation, as a PBM and mail order pharmacies from the bill's requirements, which may invite litigation.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov or (410) 260-3190.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary

³ Based on an effective date of April 1, 2024, as this bill is an emergency measure, the impact for the remaining three months of State Fiscal Year 2024 would be \$19.6 million. FY25: \$79.9 million; FY26 will be \$81.5 million; FY27 \$83.1 million; FY28 \$84.8 million; FY29 \$86.6 million.

⁴ This data does not include pharmacies that were pre-existing and either opened or closed during CY 2021 and CY 2022 due to new ownership or the issuance of a new Board of Pharmacy license.

⁵<http://www.insidepatientcare.com/issues/2016/march-2016-vol-4-no-3/404-cms-introduces-professional-dispensing-fees-for-pharmacies>

⁶<https://www.pcmantet.org/mandating-pharmacy-reimbursement-increase-spending/#:~:text=The%20average%20dispensing%20fee%20in,the%20state's%20Medicaid%20FFS%20rate>

MMCOA Comments on SB1021 - PBM Reimbursement - Opp

Uploaded by: Joseph Winn

Position: UNF



**MMCOA
Board of Directors**

**Senate Bill 1021 - Pharmacy Benefits Administration - Maryland
Medical Assistance Program and Pharmacy Benefits Managers**

UNFAVORABLE

**Senate Finance Committee
March 13, 2024**

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Kaiser Permanente - Mid-
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Jocelyn Chisholm Carter
President
MedStar Family Choice, Inc.

Dr. Darrell Gray II
President
Wellpoint

Thank you for the opportunity to submit this testimony for Senate Bill 1021 - Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers. The Maryland Managed Care Organization Association (MMCOA), which is comprised of all nine MCOs that serve Medicaid, is committed to ensuring access to the prescription drugs and devices that our members depend on. Maryland's MCOs management of the prescription drug benefit, including costly specialty drugs, provide access to the prescription drugs needed by our members at a lower cost, allowing the State to continue to provide this valuable and necessary service.

While we applaud the sponsor's goal of supporting independent pharmacies, Senate Bill 1021 does not attempt to address prescription drug affordability but rather creates a new claims reimbursement methodology for MCOs. Pharmacy reimbursement in the Medicaid program was recently studied as a result of 2023 legislation. Indeed, Senate Bill 1021 is similar to Senate Bill 895 from the 2023 Maryland General Assembly session, which was amended to require a study of the impact of changing the methodology the MCOs used to pay pharmacy claims.

Conclusions from that study show that if MCOs used the same payment methodology for pharmacy claims as the FFS model for both ingredient and dispensing fee the fiscal impact to the Medicaid program would have been approximately \$78.3 million in total funds in CY 2022. Additionally, the study highlighted the relative stability of pharmacy openings and closing in the state – showing more openings of pharmacies than closings. Lastly, the bill would increase reimbursement to the large national chain pharmacies, potentially undermining the goal of supporting independent and rural pharmacies in the state.

Senate Bill 1021 would increase costs for the state and limit the MCO's ability to work with their PBMs on providing affordable access to prescription drugs in the HealthChoice program. We respectfully urge an unfavorable report on Senate Bill 1021.

Please contact Joe Winn, Executive Director of MMCOA, with any questions regarding this testimony at jwinn@marylandmco.org.

SB 1021 DBM Written Statement .docx (1).pdf

Uploaded by: Dana Phillips

Position: INFO



Maryland

DEPARTMENT OF BUDGET
AND MANAGEMENT

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Governor

ARUNA MILLER
Lieutenant Governor

HELENE GRADY
Secretary

MARC L. NICOLE
Deputy Secretary

SENATE BILL 1021 Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

STATEMENT OF INFORMATION

DATE: March 13, 2024

COMMITTEE: Finance

SUMMARY OF BILL: Senate Bill 1021 seeks to change the reimbursement level to retail pharmacies from average wholesale price (AWP)/maximum allowable cost (MAC) pricing to the National Average Drug Acquisition Cost (NADAC) plus a dispensing fee determined in accordance with the most recent in-state cost-of-dispensing survey.

EXPLANATION: The Department of Budget and Management's (DBM) Office of Personnel Services and Benefits, Employee Benefits Division, administers the medical and prescription drug benefits coverage for State employees, retirees, and their dependents. A change from AWP/MAC to NADAC would be a major shift in the reimbursement level for the Program. Additionally, the Program will be significantly impacted by the dispensing fee provision. The Program has negotiated dispensing fees of \$0.35 and \$0.50 per script for the active and retiree populations respectively. The State's prescription plan members filled nearly 3.7 million prescriptions in plan year 2023; 1.9 million were filled by active employees and their dependents. Provisions of Senate Bill 1021 exclude a pharmacy owned by, or under the same corporate affiliation, as a pharmacy benefits manager (PBM); or a mail order pharmacy. If enacted, 665,000 (35%) of retail prescriptions filled by active employees and their dependents would not be subject to Senate Bill 1021. However, even with these exclusions, the Program's cost for active employees is expected to increase by approximately \$30 million due to an increase in the dispensing fee (~\$12.00 per fill), in the first year of implementation. It is expected the increases will trend forward annually. Any impact to the State's current prescription drug rebates are not included in this estimate.

Given the increase in cost to the State's Program, Senate Bill 1021 would require additional funding and increased employee/retiree contributions.

**For additional information, contact Laura Vykol-Gray at
(410) 260-6371 or laura.vykol@maryland.gov**

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<http://dbm.maryland.gov>