



Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

February 7, 2024

The Honorable Pamela Beidle
Senate Finance Committee
3 East, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: SB 388 – Support with Amendments

Dear Chair Beidle and Members of the Committee:

Kaiser Permanente appreciates the opportunity to provide comment on SB 388, “Prescription Drug Affordability Board - Authority for Upper Payment Limits and Funding (The Lowering Prescription Drug Costs For All Marylanders Now Act).” Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.¹ Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for over 825,000 members. In Maryland, we deliver care to approximately 475,000 members.

We appreciate and support the state’s efforts to identify drugs that are causing affordability challenges for Maryland consumers. Pharmaceutical manufacturers’ virtually unfettered pricing power has empowered them to set exorbitant prices, leading to a dysfunctional and grossly imbalanced market for prescription drugs.

This bill could be interpreted as targeting drug *purchases* above an upper payment limit, rather than drug *sales*. Unless the law targets drug manufacturers will not solve the problem of unaffordable drug prices. Manufacturers set the price of their drugs, and penalizing purchasers for purchasing drugs above the upper payment limit will only shift the cost burden onto the purchasers.

As the Board implements the underlying legislation, it is unclear how manufacturers and other sellers of prescription drugs will be held accountable when refusing to sell at prices at or below the established upper payment limit. Pharmacies and other purchasers of prescription drugs should not be punished for the pricing decisions of manufacturers and other sellers. To that end, we recommend including the clarifying amendment below to fairly protect purchasers who are unable to purchase prescription drugs at or below the established upper payment limit price.

¹ Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation’s largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente’s members.

This amendment is consistent with the law’s purpose, as stated in § 21-2C-02 of the Health – General Article, “to protect State residents, State and local governments, commercial health plans, health care providers, pharmacies licensed in the State, and other stakeholders within the health care system from the high costs of prescription drug products.”

Thank you for the opportunity to comment. Please feel free to contact me at Allison.W.Taylor@kp.org or (202) 924-7496 with questions.

Sincerely,



Allison Taylor
Director of Government Relations
Kaiser Permanente

AMENDMENT TO SENATE BILL 388
(First Reading File Bill)

On page 7, in line 27, after “(C)” insert “**(1)**”; after line 30, insert:

(2) A PURCHASER THAT IS UNABLE TO PURCHASE A PRESCRIPTION DRUG PRODUCT AT OR BELOW THE UPPER PAYMENT LIMIT ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL NOT BE SUBJECT TO AN ENFORCEMENT ACTION UNDER § 21-2C-12 OF THIS SUBTITLE”.