



LEGISLATIVE POSITION:

Unfavorable

House Bill 726 – Pharmacy Benefits Managers - Definition of Purchaser and Alteration of Application of Law

House Health and Government Operations Committee

Thursday, February 29, 2024

Dear Chairwoman Pena-Melnyk and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

House Bill 726 amends current state law governing pharmacy benefit managers by repealing the previous definitions of “carrier” and “ERISA” and altering the definition of “purchaser.” As a result, the bill seeks to broadly expand the state regulations governing pharmacy benefit managers to additional entities providing prescription drug coverage or benefits in the state, including programs subject to the federal Employee Retirement Income Security Act of 1974 (ERISA).

This legislation will have major impacts on both employers and employees throughout the state. With the majority of private sector employees participating in healthcare plans that are covered under ERISA protections, the Chamber urges the committee to avoid any legislative action that could increase healthcare costs for Marylanders and negatively impact the ability of health plan providers to design affordable products for the Maryland healthcare market. While we understand that the *Rutledge* Supreme Court decision has opened the door to new and additional state regulation, the Chamber is very concerned that further state regulation of ERISA protected health plans will result in worse outcomes for both employers and employees.

For more than 50 years, self-insured employer-sponsored healthcare, which is a popular healthcare structure for employers, local governments, schools, and unions, has been governed by ERISA. This federal preemption provides uniform regulations and protections for both employees and employers sponsoring their healthcare. These uniform standards allow Maryland businesses to provide affordable and accessible healthcare and prescription drugs to employees.

HB 726 would strip away the very ERISA protections and benefits that have allowed employers to provide healthcare and prescription drug benefits at affordable prices for thousands of hard-working Marylanders. **By removing these policies, protections, and benefits that allow employers to keep benefit premiums as low as possible, Maryland employers and employees stand to incur significant increases in co-pays, co-insurance rates, and prescription drug prices.** The increased costs will flow downhill to employees who want and need these benefits and the employers who strive to offer them.

In 2019, Maryland became the first state to establish a Prescription Drug Affordability Board (PDAB). The law requires the board to review both state and commercial health plans' use of prescription drugs and make recommendations to state officials on ways to make them more affordable for residents. By December 1, 2023, the board was required to submit a report to the General Assembly that recommends whether legislation should be passed to expand the authority of the board to set upper payment limits to all purchases and payor reimbursements of prescription drug products in the state. PDAB issued a **draft** working document in December 2023, and accepted comments until January 10, 2024. HB 726 should not be implemented until a **final** report has been submitted and reviewed.

Healthcare coverage must remain accessible and affordable so that employers can continue to offer these benefits that employees both want and cherish. Given the far-reaching and negative impacts of this legislation, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on HB 726.

