



DEPARTMENT OF HEALTH

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

February 6, 2025

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401-1991

RE: House Bill (HB) 424 – Prescription Drug Affordability Board – Authority for Upper Payment Limits (The Lowering Prescription Drug Costs for All Marylanders Now Act) - Letter of Support with Amendments

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support with amendments for House Bill 424 - Prescription Drug Affordability Board – Authority for Upper Payment Limits (The Lowering Prescription Drug Costs for All Marylanders Now Act).

HB 424 would require the Prescription Drug Affordability Board (PDAB) to establish a process for setting upper payment limits for all purchases and payor reimbursements of prescription drugs in the State that the Board determines have led or will lead to affordability challenges, and authorizes the Board to reconsider an upper payment limit for a drug that becomes a current shortage.

The Department supports initiatives by PDAB that result in cost-savings to the State and consumers. However, the Department notes that the Maryland Medical Assistance Program (Medicaid) may need certain flexibilities before adopting upper payment limits established by PDAB in order to maximize savings.

The Department would need approval from the federal government to implement State-established upper payment limits for drugs covered by the Medicaid. Setting upper payment limits may conflict with the Medicaid Drug Rebates Program as well as the Covered Outpatient Drug Rule (CMS-2345-FC). Furthermore, setting upper payment limits could prevent the Department from getting federal and supplemental rebates for those specific drugs with upper payment limits. Costs for any drugs purchased out of compliance with the federal requirements will need to be covered with 100% State general funds. There may also be a negative impact on managed care organizations' ability to negotiate rates with vendors, increasing costs paid by the State through capitation rates. These factors would result in an indeterminate, but substantial fiscal impact on Medicaid.

To address these contingencies, the Department is offering an amendment to give Medicaid the authority to approve upper payment limits that would apply to Medicaid-covered drugs and avoid any adverse impacts from the setting of upper payment limits.

The Department looks forward to the PDAB's Upper Payment Limit Action Plan on setting upper payment limits for state and local governments, and its continued work on addressing prescription drug prices.

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.

Sincerely,

Laura Herrera Scott, M.D., MPH
Secretary

Attachment included

In the House Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 424

(First Reading File Bill)

On Page 7, after line 12, insert the following:

“(3) ANY DETERMINATION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION TO IMPLEMENT UPPER PAYMENT LIMITS FOR DRUGS COVERED BY THE MEDICAL ASSISTANCE PROGRAM SHALL REQUIRE THE APPROVAL OF THE MEDICAL ASSISTANCE PROGRAM, TO ENSURE THAT

(I) THERE ARE NO CONFLICTS WITH THE MEDICAID DRUG REBATES PROGRAM, THE COVERED OUTPATIENT DRUG RULE (CMS-2345-FC) AND ANY OTHER FEDERAL REQUIREMENTS AS NECESSARY; AND

(II) THE PROPOSED UPPER PAYMENT LIMITS DO NOT REQUIRE ADDITIONAL FUNDING TO BE ALLOCATED TO THE MEDICAL ASSISTANCE BUDGET.”