

# HOUSE BILL 876

J5, J4

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CF SB 526

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By: ~~Delegates S. Johnson and A. Johnson~~, A. Johnson, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White Holland, and Woods

Introduced and read first time: February 2, 2024

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance – Pharmacy Benefits Managers – Specialty Drugs ~~Dispensed~~**  
3 **~~by a Physician~~**

4 FOR the purpose of prohibiting certain ~~pharmacy benefits managers from requiring a~~  
5 ~~beneficiary to use a specific pharmacy or entity for a specialty drug if the drug is~~  
6 ~~dispensed by a physician, is used in the treatment of a certain condition, and meets~~  
7 ~~other requirements; altering the application to specialty drugs of the prohibition on~~  
8 ~~certain pharmacy benefits managers reimbursing a pharmacy or pharmacist in an~~  
9 ~~amount less than the amount the pharmacy benefits manager reimburses itself or~~  
10 ~~an affiliate for providing the same product or service; insurers, nonprofit health~~  
11 ~~service plans, and health maintenance organizations from excluding coverage for~~  
12 ~~certain specialty drugs that are administered or dispensed by a provider that meets~~  
13 ~~certain criteria; requiring the reimbursement rate for certain specialty drugs to meet~~  
14 ~~certain criteria; and generally relating to pharmacy benefits managers and specialty~~  
15 ~~drugs.~~

16 BY repealing and reenacting, with amendments,  
17 Article – Insurance  
18 Section ~~15–847(d)~~, ~~15–1611.1~~, and ~~15–1612~~  
19 Annotated Code of Maryland  
20 (2017 Replacement Volume and 2023 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
 2 Article – Insurance  
 3 Section 15–847.2  
 4 Annotated Code of Maryland  
 5 (2017 Replacement Volume and 2023 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 7 That the Laws of Maryland read as follows:

8 **Article – Insurance**

9 15–847.

10 (d) Subject to § 15–805 of this subtitle [and], notwithstanding § 15–806 of this  
 11 subtitle, [nothing in] AND EXCEPT AS PROVIDED IN § 15–847.2(D) OF THIS SUBTITLE,  
 12 this article or regulations adopted under this article [precludes] DO NOT PRECLUDE an  
 13 entity subject to this section from requiring a covered specialty drug to be obtained through:

14 (1) a designated pharmacy or other source authorized under the Health  
 15 Occupations Article to dispense or administer prescription drugs; or

16 (2) a pharmacy participating in the entity’s provider network, if the entity  
 17 determines that the pharmacy:

18 (i) meets the entity’s performance standards; and

19 (ii) accepts the entity’s network reimbursement rates.

20 15–847.2.

21 (A) (1) THIS SECTION APPLIES TO:

22 (i) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT  
 23 PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR  
 24 BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR  
 25 DELIVERED IN THE STATE; AND

26 (ii) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE  
 27 COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL OR GROUP CONTRACTS  
 28 THAT ARE ISSUED OR DELIVERED IN THE STATE.

29 (2) AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH  
 30 MAINTENANCE ORGANIZATION THAT PROVIDES COVERAGE FOR PRESCRIPTION  
 31 DRUGS THROUGH A PHARMACY BENEFITS MANAGER IS SUBJECT TO THE  
 32 REQUIREMENTS OF THIS SECTION.

1           **(B) AN ENTITY SUBJECT TO THIS SECTION MAY NOT EXCLUDE COVERAGE**  
2 **FOR A COVERED SPECIALTY DRUG ADMINISTERED OR DISPENSED BY A PROVIDER**  
3 **UNDER § 12-102 OF THE HEALTH OCCUPATIONS ARTICLE, IF THE ENTITY**  
4 **DETERMINES THAT:**

5           **(1) THE PROVIDER THAT ADMINISTERS OR DISPENSES THE COVERED**  
6 **SPECIALTY DRUG:**

7                   **(I) IS AN IN-NETWORK PROVIDER OF COVERED MEDICAL**  
8 **ONCOLOGY SERVICES; AND**

9                   **(II) COMPLIES WITH STATE REGULATIONS FOR THE**  
10 **ADMINISTERING AND DISPENSING OF SPECIALTY MEDICATION; AND**

11           **(2) THE COVERED SPECIALTY DRUG IS:**

12                   **(I) INFUSED, AUTO-INJECTED, OR AN ORAL TARGETED**  
13 **IMMUNE MODULATOR; OR**

14                   **(II) AN ORAL MEDICATION THAT:**

15                           **1. REQUIRES COMPLEX DOSING BASED ON CLINICAL**  
16 **PRESENTATION; OR**

17                           **2. IS USED CONCOMITANTLY WITH OTHER INFUSION OR**  
18 **RADIATION THERAPIES.**

19           **(C) THE REIMBURSEMENT RATE FOR DRUGS COVERED UNDER THIS**  
20 **SECTION SHALL BE:**

21                   **(1) AT THE SAME RATE AS THE RATE APPLICABLE TO A DESIGNATED**  
22 **SPECIALTY PHARMACY FOR DISPENSING THE COVERED SPECIALTY DRUGS; AND**

23                   **(2) BILLED AT A NONHOSPITAL LEVEL OF CARE OR PLACE OF**  
24 **SERVICE.**

25           **(D) THIS SECTION DOES NOT PROHIBIT AN ENTITY SUBJECT TO THIS**  
26 **SECTION FROM REFUSING TO AUTHORIZE OR APPROVE OR FROM DENYING**  
27 **COVERAGE OF A COVERED SPECIALTY DRUG ADMINISTERED OR DISPENSED BY A**  
28 **PROVIDER IF ADMINISTERING OR DISPENSING THE DRUG FAILS TO SATISFY**  
29 **MEDICAL NECESSITY CRITERIA.**

30 15-1611.1.

1 (a) This section applies only to a pharmacy benefits manager that provides  
2 pharmacy benefits management services on behalf of a carrier.

3 (b) Except as provided in subsection (c) of this section, a pharmacy benefits  
4 manager may not require that a beneficiary use a specific pharmacy or entity to fill a  
5 prescription if:

6 (1) the pharmacy benefits manager or a corporate affiliate of the pharmacy  
7 benefits manager has an ownership interest in the pharmacy or entity; or

8 (2) the pharmacy or entity has an ownership interest in the pharmacy  
9 benefits manager or a corporate affiliate of the pharmacy benefits manager.

10 (c) ~~[A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION §~~  
11 ~~15-847.2 OF THIS TITLE,~~ A pharmacy benefits manager may require a beneficiary to use  
12 a specific pharmacy or entity for a specialty drug as defined in § 15-847 of this title.

13 ~~(D) A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE A BENEFICIARY~~  
14 ~~TO USE A SPECIFIC PHARMACY OR ENTITY FOR A SPECIALTY DRUG AS DEFINED IN §~~  
15 ~~15-847 OF THIS TITLE IF THE DRUG:~~

16 ~~(1) IS DISPENSED BY A PHYSICIAN UNDER § 12-102 OF THE HEALTH~~  
17 ~~OCCUPATIONS ARTICLE;~~

18 ~~(2) IS USED IN THE TREATMENT OF A CHRONIC, COMPLEX, RARE, OR~~  
19 ~~LIFE-THREATENING MEDICAL CONDITION; AND~~

20 ~~(3) (I) IS INJECTED OR INFUSED; OR~~

21 ~~(II) IS AN ORAL DRUG THAT:~~

22 ~~1. IS AN IMMUNOMODULATOR OR ANTICANCER DRUG;~~

23 ~~2. HAS A DOSAGE DEPENDENT ON THE PATIENT'S~~  
24 ~~CLINICAL PRESENTATION AT THE TIME IT IS DISPENSED; OR~~

25 ~~3. IS PRESCRIBED CONCOMITANTLY WITH AN~~  
26 ~~OUTPATIENT TREATMENT.~~

27 15-1612.

28 (a) This section applies only to a pharmacy benefits manager that provides  
29 pharmacy benefits management services on behalf of a carrier.

1 (b) ~~(1)~~ ~~[This]~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
2 ~~SUBSECTION, THIS~~ section does not apply to reimbursement:

3 ~~[(1)]~~ ~~(H)~~ EXCEPT AS PROVIDED IN § 15-847.2 OF THIS TITLE, for  
4 specialty drugs;

5 ~~[(2)]~~ ~~(H)~~ for mail order drugs; or

6 ~~[(3)]~~ ~~(H)~~ to a chain pharmacy with more than 15 stores or a pharmacist  
7 who is an employee of the chain pharmacy.

8 ~~(2)~~ ~~THIS SECTION APPLIES TO REIMBURSEMENT OF A SPECIALTY~~  
9 ~~DRUG, INCLUDING A SPECIALTY DRUG DISPENSED BY MAIL ORDER, THAT MEETS THE~~  
10 ~~CRITERIA SPECIFIED UNDER § 15-1611.1(D) OF THIS SUBTITLE.~~

11 (c) A pharmacy benefits manager may not reimburse a pharmacy or pharmacist  
12 for a pharmaceutical product or pharmacist service in an amount less than the amount that  
13 the pharmacy benefits manager reimburses itself or an affiliate for providing the same  
14 product or service.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.