HB 1227

Department of Legislative Services

Maryland General Assembly
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FISCAL NOTE
Revised

House Bill 1227 (Delegates Shriver and Hurson)
Economic Matters and Environmental Matters

Citizens' Prescription Drug Benefit Program

This bill establishes the Citizens' Prescription Drug Benefit Program in the Department of Budget and Management (DBM). The purpose of the program is to aggregate the purchasing power of the State Employee Health Benefits Plan, the Department of Health and Mental Hygiene (DHMH), employer groups, health insurance carriers, and eligible individuals under one entity in order to obtain volume discounts on the cost of prescription drugs on behalf of State residents, businesses, and the State. The State Employee Health Benefits Plan, DHMH, and Medicaid managed care organizations (MCOs) must participate in the program. State residents, large employers, and insurance carriers may participate.

Fiscal Summary

State Effect: DBM general fund revenues could increase by $2.88 million in FY 2003. DHMH nonbudgeted revenues could increase by $2.35 million in FY 2003. DBM general fund expenditures for the Citizens' Prescription Drug Benefit Program could increase by an estimated $422,200 in FY 2003. Future year estimates reflect annualization and inflation.

($ in millions)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	$2.88	$2.98	$3.32	$3.71	$4.16
NonBud Rev.	2.35	2.71	3.11	3.58	4.12
GF Expenditure	.42	.36	.37	.38	.39
Net Effect	$4.81	$5.32	$6.06	$6.91	$7.89

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: All program participants receive discounts on the cost of prescription drugs as negotiated by DBM. DBM may contract with a pharmacy benefit manager (PBM) and a public or private nonprofit organization to provide enrollment, marketing, and outreach services. If DBM contracts with a PBM to provide services, the contract must specify that: (1) any rebate, discount, or other remuneration that is provided by a drug manufacturer to the PBM on behalf of the program must inure to DBM for use in the program; (2) agreements between the PBM and any drug manufacturer must be disclosed to DBM; (3) the drug formulary for the program must be open; and (4) the PBM must implement methods to encourage the use of generic drugs.

The program administrator must distribute cards to all participants that conform to National Council for Prescription Drug Program (NCPDP) specifications. The program must include an annual fee for individual, business, and family membership intended to cover the administrative expenses of the program.

If permitted by federal regulations, DBM must access discounted drug prices available under the federal 340B Drug Pricing Program. DBM must make benefits under the program available to participants no later than January 1, 2003. DBM must report to the Senate Finance Committee and the House Environmental Matters Committee by October 1, 2003 on the implementation of the bill.

Current Law: The Medicaid program provides comprehensive prescription drug coverage to enrollees. Medicaid enrollees pay $2 copayments for each prescription, and most drugs are covered under the program. The Maryland Pharmacy Assistance Program (MPAP), part of the Medicaid program, provides prescription drug coverage for eligible low-income individuals. MPAP provides coverage for maintenance drugs, anti-infectives, and AZT. Enrollees must pay a $5 copayment for each prescription. Medicaid pays prescription drug costs for fee-for-service enrollees. Medicaid enrollees in HealthChoice MCOs receive prescription drug coverage under the MCO's prescription drug benefit, which may be administered by a PBM and include closed formularies and other price controls.

The State Employee Health Benefits Plan provides prescription drug benefits to employees, retirees, and eligible dependents. State subsidies for premiums are determined in regulation. Currently, the State pays approximately 80% of prescription drug coverage premiums for enrollees.

Background: Approximately 31 states have established or authorized some type of program to provide prescription drug coverage or assistance, primarily to low-income seniors or persons with disabilities who do not qualify for Medicaid. Most programs use state funds to subsidize a portion of the costs, usually for a defined population that meets enrollment criteria, but others use discounts or bulk purchasing approaches.

The federal 340B Drug Pricing Program is administered by the Office of Pharmacy Affairs within the U.S. Department of Health and Human Services. Created by Congress in the 1992 Veterans Health Care Act, the program provides discounts on outpatient drugs to participating safety-net health providers.

The program serves more than 8,800 approved sites in all 50 states plus territories, but does not actually pay for pharmaceuticals. Minimum discounts are set through a formula in federal law. A "prime vendor" wholesaler also negotiates with manufacturers. It combines federal buying power and works much like a bulk purchaser. A 2001 study concluded that 340B centers pay only 49% of the regular market price, while Medicaid pays 60.5%. Federal law requires pharmaceutical manufacturers that participate in Medicaid to also participate in this drug pricing program.

AdvancePCS Prescription Plan: AdvancePCS, the pharmacy benefit manager (PBM) that administers the State Employee Health Benefits Plan prescription drug program, independently offers a prescription drug discount card program for individuals without prescription drug coverage. The card, available without any membership fee, provides up to a 13% discount on brand name medications and a 25% discount on generic drugs. The average discount for cardholders is 21%, and cardholders receive the lower of the pharmacy's retail price or the discount card price. The card is accepted at more than 40,000 pharmacies nationwide, including all of the leading chains.

State Expenditures: DBM general fund expenditures could increase by an estimated $422,189 in fiscal 2003, which reflects the program's implementation date of January 1, 2003. This estimate reflects the cost of two contract managers to coordinate program issues with DHMH, Medicaid MCOs, large group employers, and AdvancePCS. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- DBM amends its contract with AdvancePCS, its pharmacy benefit manager, to: (1) negotiate better discounts or rebates based on the larger number of covered lives under the new program; and (2) provide enrollment services and issue prescription drug cards to individuals who participate in the program;

- AdvancePCS takes advantage of its negotiated rebates with drug manufacturers, discounts with pharmacies, and its administrative infrastructure used in its individual discount drug card program, *AdvancePCS Prescription Plan*;

- 100,000 individuals enroll in the program to receive discounted drug prices;

- issuing NCPDP-compliant prescription drug cards for 100,000 individuals costs $84,000 (50 cents per card plus postage); and

- annual outreach and marketing services cost $250,000.

Salaries and Fringe Benefits	$75,219
Outreach and Marketing	250,000
Prescription Drug Discount Cards	84,000
Other Operating Expenses	12,970
Total FY 2003 State Expenditures	**$422,189**

There are insufficient data at this time to reliably estimate the costs of amending DBM's contract with AdvancePCS to carry out the bill's provisions. Currently, DBM pays AdvancePCS a $1 processing fee for each prescription written, for which DBM will pay AdvancePCS approximately $3 million in fiscal 2003. This fee covers claims processing, which is much more labor intensive than administering a pharmacy discount card program. In addition, AdvancePCS has mechanisms in place to negotiate rebates and discounts with both drug manufacturers and pharmacies. Accordingly, any required contract amendments would cost significantly less than current administrative fees.

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; (2) 5% increases in enrollment; and (3) 1% annual increases in ongoing operating expenses.

Medicaid MCOs: The bill requires MCOs to participate in the Citizens' Prescription Drug Benefit Program in order to seek volume discounts on prescription drugs used by the Medicaid Program, the State Employee Health Benefits Plan, and any large businesses, carriers, and individuals who choose to participate. MCOs currently negotiate discounts and rebates through their own PBMs, which take advantage of large volume discounts and rebates. To the extent the bill prohibits MCOs from obtaining better discounts through their own PBMs as well as controlling costs through closed formularies, MCO prescription drug costs could increase. To the extent the bill permits MCOs to take advantage of better rebates or discounts without eroding their own

underlying cost containment mechanisms, MCO prescription drug costs could decrease. There are insufficient data at this time to reliably estimate the fiscal impact on MCOs.

State Revenues:

DBM: DBM revenues could increase by an estimated $2.88 million in fiscal 2003, which accounts for the program's January 1, 2003 implementation date. This estimate reflects increased rebate revenues for the State Employee Health Benefits Plan and annual fees charged to participating individuals who receive the prescription drug discount card. This estimate assumes:

- the Citizens' Prescription Drug Benefit Program begins operation January 1, 2003;
- State Employee Health Benefits Plan prescription drug program expenditures are $99 million in the last half of fiscal 2003;
- new rebates average 2% of State plan prescription drug expenditures (or $1.98 million); and
- 100,000 participating individuals pay an annual $9.00 enrollment fee (or $900,000) to cover administrative costs associated with the program.

Future year estimates reflect annualization, 15% prescription drug price inflation, and assume annual enrollment fees for individual participants will be adjusted to closely match annual program expenditures.

DHMH: DHMH revenues could increase by an estimated $2.35 million in fiscal 2003. This estimate assumes:

- Medicaid (including MPAP) prescription drug expenditures are $196,075,000 in the last half of fiscal 2003;
- new rebates average 2% of Medicaid and MPAP drug expenditures (or $3,921,500); and
- DHMH must refund half of rebates received under the Medicaid program, or $1,568,600, to the federal government.

Under federal law, DHMH must pay 50% of rebate revenues received in the Medicaid program back to the federal government.

Future year estimates reflect annualization and 15% prescription drug price inflation.

Small Business Effect: There are approximately 1,300 pharmacies in Maryland, 230 of which are small businesses. Under the Citizens' Prescription Drug Benefit Program, small business pharmacies may be required to sell prescription drugs to enrollees at a loss. According to a Kaiser Family Foundation report, most discount drug card programs administered by PBMs rely on discounts obtained from agreements with pharmacies, rather than from negotiated discounts or rebates from drug manufacturers.

Additional Comments: Individuals who enroll in the Citizens' Prescription Drug Benefit Program could save approximately 15% to 40% on prescription drugs. For an individual who fills 12 prescriptions a year, at an average price of $62 per prescription, savings could range from $111 to $297 annually. In addition, a large business that is self-funded could choose to participate in the Citizen's Prescription Drug Benefit Program if the program's discounts are better than those the large business could negotiate through its PBM. There are insufficient data at this time to reliably estimate any savings for large businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Citizens Health Prescription Drug Program; *Prescription Drug Discount Programs, Current Programs and Issues* (February 2002), Kaiser Family Foundation; National Conference of State Legislators; Department of Health and Mental Hygiene; Maryland Insurance Administration; Department of Budget and Management (Employee Benefits Division); Department of Legislative Services

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