

HOUSE BILL 363

Unofficial Copy
J1

2003 Regular Session
(3r1328)

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by ~~Delegate Rosenberg~~ Delegates Rosenberg, Costa, Boutin,
Goldwater, Mandel, Smigiel, Donoghue, Hubbard, and V. Turner

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Maryland Pharmacy Access Hotline**
3 **~~Prior Authorization - Mental Health Drugs~~**

4 FOR the purpose of ~~prohibiting the Department of Health and Mental Hygiene from~~
5 ~~establishing, within certain pharmacy assistance programs in the Maryland~~
6 ~~Medical Assistance Program, prior authorization requirements or restrictions on~~
7 ~~coverage for certain drugs used to treat mental illness and brain disorders;~~
8 ~~providing for the application of this Act; requiring the Department to consider~~
9 ~~the implementation of certain programs on psychiatric drug costs; making~~
10 ~~certain stylistic changes; and generally relating to the Maryland Medical~~
11 ~~Assistance Program and drugs for mental illness and brain disorders. requiring~~
12 ~~the Department of Health and Mental Hygiene to establish a certain hotline;~~
13 ~~requiring the Department to distribute to Program recipients certain~~
14 ~~information about the hotline; requiring the Department to notify certain health~~
15 ~~care providers about the hotline; requiring the Department to develop a~~
16 ~~methodology to track the number and type of calls received by the hotline;~~

1 requiring the Department to report quarterly to the Pharmacy and Therapeutics
 2 Committee on the number and type of calls received by the hotline; and generally
 3 relating to the Maryland Medical Assistance Program and the Maryland
 4 Pharmacy Access Hotline.

5 BY adding to
 6 Article - Health - General
 7 Section 15-136
 8 Annotated Code of Maryland
 9 (2000 Replacement Volume and 2002 Supplement)

10 ~~BY repealing and reenacting, without amendments,~~
 11 ~~Article - Health - General~~
 12 ~~Section 15-101(a) and (i)~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(2000 Replacement Volume and 2002 Supplement)~~

15 ~~BY adding to~~
 16 ~~Article - Health - General~~
 17 ~~Section 15-118.1~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2000 Replacement Volume and 2002 Supplement)~~

20 ~~BY repealing and reenacting, with amendments,~~
 21 ~~Article - Health - General~~
 22 ~~Section 15-124 and 15-124.1~~
 23 ~~Annotated Code of Maryland~~
 24 ~~(2000 Replacement Volume and 2002 Supplement)~~

25 **Preamble**

26 ~~WHEREAS, Unrestricted access to psychiatric medications is critical to the~~
 27 ~~successful treatment of mental illnesses and brain disorders; and~~

28 ~~WHEREAS, The implementation of preferred drug lists, formularies, and prior~~
 29 ~~authorization programs in other states has been documented to result in a~~
 30 ~~deterioration of patient care and increased psychiatric hospitalization; and~~

31 ~~WHEREAS, A cost containment program that results in increased~~
 32 ~~hospitalization will not save money for the State of Maryland but simply transfer~~
 33 ~~costs to other areas of the State budget; and~~

34 ~~WHEREAS, The human costs of restricting access to psychiatric medications~~
 35 ~~far exceed the potential financial savings to the State of Maryland; and~~

1 WHEREAS, Legislation introduced during the 2002 Session of the Maryland
 2 General Assembly prohibiting the Department of Health and Mental Hygiene from
 3 establishing prior authorization requirements or restricting coverage for medications
 4 used to treat mental illnesses and brain disorders in the Maryland Medical Assistance
 5 Program passed the Maryland House of Delegates and the Senate of Maryland; now,
 6 therefore,

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

9 **Article - Health - General**

10 ~~15-101.~~

11 (a) ~~In this title the following words have the meanings indicated.~~

12 (i) ~~"Program" means the Maryland Medical Assistance Program.~~

13 ~~15-118.1.~~

14 (A) (1) ~~THIS SECTION DOES NOT APPLY TO DRUGS COVERED BY MANAGED~~
 15 ~~CARE ORGANIZATIONS UNDER § 15-103 OF THIS SUBTITLE.~~

16 (2) ~~THIS SECTION APPLIES TO THE MARYLAND PHARMACY ASSISTANCE~~
 17 ~~PROGRAM DEVELOPED UNDER § 15-124 OF THIS SUBTITLE, THE MARYLAND~~
 18 ~~PHARMACY DISCOUNT PROGRAM DEVELOPED UNDER § 15-124.1 OF THIS SUBTITLE,~~
 19 ~~AND ANY OTHER PHARMACY ASSISTANCE PROGRAM DEVELOPED BY THE~~
 20 ~~DEPARTMENT.~~

21 (B) ~~THE DEPARTMENT MAY NOT ESTABLISH PRIOR AUTHORIZATION~~
 22 ~~REQUIREMENTS OR RESTRICT COVERAGE FOR DRUGS USED TO TREAT MENTAL~~
 23 ~~ILLNESS AND BRAIN DISORDERS, INCLUDING:~~

24 (1) ~~ATYPICAL ANTIPSYCHOTIC MEDICATIONS;~~

25 (2) ~~CONVENTIONAL ANTIPSYCHOTIC MEDICATIONS;~~

26 (3) ~~ACTIVE SEROTONIN RE-UPTAKE INHIBITORS;~~

27 (4) ~~ATYPICAL ANTIDEPRESSANTS; AND~~

28 (5) ~~DRUGS TO TREAT EPILEPSY AND OTHER CENTRAL NERVOUS SYSTEM~~
 29 ~~BRAIN DISORDERS.~~

30 (C) ~~THE DEPARTMENT SHALL CONSIDER:~~

31 (1) ~~IMPLEMENTATION OF A QUALITY IMPROVEMENT PROGRAM ON~~
 32 ~~PSYCHIATRIC DRUG COSTS THAT ADDRESSES POLYPHARMACY AND PRESCRIBING~~
 33 ~~PATTERNS; AND~~

1 (2) ~~PHYSICIAN EDUCATION INITIATIVES ON PSYCHIATRIC DRUG COSTS,~~
 2 ~~INCLUDING AN ANNUAL CIRCULATION OF A DRUG PRICING LIST TO PHYSICIANS~~
 3 ~~PARTICIPATING IN THE PROGRAM.~~

4 ~~15-124.~~

5 (a) (1) ~~The Department shall maintain a Maryland Pharmacy Assistance~~
 6 ~~Program for low income individuals whose:~~

7 (i) ~~Assets are not more than 1.5 times the amount of accountable~~
 8 ~~resources according to the asset schedule of the Maryland Medical Assistance~~
 9 ~~Program; and~~

10 (ii) ~~Gross annual income does not exceed:~~

11 1. ~~\$4,600 plus \$500 for each individual over 1 in a family~~
 12 ~~unit; and~~

13 2. ~~An annual increase set by the Secretary under paragraph~~
 14 ~~(2)(ii)4 of this subsection.~~

15 (2) (i) 1. ~~In this paragraph the following words have the meanings~~
 16 ~~indicated.~~

17 2. ~~"Income disregard" means the exclusion of up to \$1,000 of~~
 18 ~~annual income earned by an individual as a client of a sheltered workshop if the~~
 19 ~~individual's sole other income is derived from a Social Security payment.~~

20 3. ~~"Sheltered workshop" means a workshop licensed by the~~
 21 ~~Developmental Disabilities Administration under Title 7, Subtitle 9 of this article.~~

22 (ii) ~~For the purpose of paragraph (1) of this subsection, the~~
 23 ~~Secretary shall:~~

24 1. ~~In order to determine eligibility for the Maryland~~
 25 ~~Pharmacy Assistance Program, deduct any income disregards from the countable~~
 26 ~~gross income of a unit that contains a disabled individual;~~

27 2. ~~Define excluded assets;~~

28 3. ~~Establish a family unit structure; and~~

29 4. ~~Beginning July 1, 1985, increase annually at the time~~
 30 ~~Social Security benefits are increased, rounded to the next highest even \$50 level, the~~
 31 ~~income level within which an individual is eligible for benefits under the Maryland~~
 32 ~~Pharmacy Assistance Program by the larger of:~~

33 A. ~~The percentage by which benefits under Title II of the~~
 34 ~~Social Security Act (42 U.S.C. 401-433) are increased by the federal government due~~
 35 ~~to cost of living changes as that percentage is reported in the Federal Register~~
 36 ~~pursuant to 42 U.S.C. 415(1)(2)(D) but not to exceed 8 percent; or~~

1 (d) (1) The Secretary shall adopt rules and regulations that authorize the
2 denial, restriction, or termination of eligibility for recipients who have abused
3 benefits under the Maryland Pharmacy Assistance Program.

4 (2) As a condition of participation, the Department may require
5 Maryland Pharmacy Assistance Program participants to apply for eligibility in the
6 Maryland Medical Assistance Program within 60 days of notification to do so by the
7 Department.

8 (3) The rules and regulations shall require that the recipient be given
9 notice and an opportunity for a hearing before eligibility may be denied, restricted, or
10 terminated under this subsection.

11 (E) ~~PRIOR AUTHORIZATION PROCEDURES OR RESTRICTIONS ON COVERAGE~~
12 ~~DEVELOPED FOR THE MARYLAND PHARMACY ASSISTANCE PROGRAM SHALL BE~~
13 ~~DEVELOPED IN ACCORDANCE WITH § 15.118.1 OF THIS SUBTITLE.~~

14 ~~[(e)]~~ (F) The Secretary shall develop a program, in consultation with
15 appropriate agencies, that will provide information to ineligible Maryland Pharmacy
16 Assistance Program applicants regarding other programs that they may be eligible
17 for including the Maryland Medbank Program established under § 15-124.2 of this
18 subtitle and the short-term prescription drug subsidy plan established under Subtitle
19 6 of this title.

20 ~~15-124.1.~~

21 (a) (1) In this section the following words have the meanings indicated:

22 (2) "Enrollee" means an individual who is enrolled in the Maryland
23 Pharmacy Discount Program.

24 (3) "Program" means the Maryland Pharmacy Discount Program
25 established under this section.

26 (b) There is a Maryland Pharmacy Discount Program within the Maryland
27 Medical Assistance Program.

28 (c) The purpose of the Program is to improve the health status of Medicare
29 beneficiaries who lack prescription drug coverage by providing access to lower cost,
30 medically necessary, prescription drugs.

31 (d) The Program shall be administered and operated by the Department as
32 permitted by federal law or waiver.

33 (e) (1) The Program shall be open to Medicare beneficiaries who lack other
34 public or private prescription drug coverage.

35 (2) Notwithstanding paragraph (1) of this subsection, enrollment in the
36 Maryland Medbank Program established under § 15-124.2 of this subtitle or the

1 Maryland Pharmacy Assistance Program established under § 15-124 of this subtitle
2 does not disqualify an individual from being eligible for the Program.

3 (f) (1) Subject to subsection (g) of this section, an enrollee may purchase
4 medically necessary prescription drugs that are covered under the Maryland Medical
5 Assistance Program from any pharmacy that participates in the Maryland Medical
6 Assistance Program at a price that is based on the price paid by the Maryland
7 Medical Assistance Program, minus the aggregate value of any federally mandated
8 manufacturers' rebates.

9 (2) Subject to subsection (g) of this section, and to the extent authorized
10 under federal waiver, an enrollee whose annual household income is at or below 175
11 [percent] % of the federal poverty guidelines may receive a discount subsidized by the
12 Department that is equal to 35 [percent] % of the price paid by the Maryland Medical
13 Assistance Program for each medically necessary prescription drug purchased under
14 the Program.

15 (g) The Department may establish mechanisms to:

16 (1) Recover the administrative costs of the Program;

17 (2) Reimburse participating pharmacies in an amount equal to the
18 Maryland Medical Assistance price, minus the copayment paid by the enrollee for
19 each prescription filled under the Program; and

20 (3) Allow participating pharmacies to collect a \$1 processing fee, in
21 addition to any authorized dispensing fee, for each prescription filled for an enrollee
22 under the Program.

23 (H) ~~PRIOR AUTHORIZATION PROCEDURES OR RESTRICTIONS ON COVERAGE~~
24 ~~DEVELOPED FOR THE PROGRAM SHALL BE DEVELOPED IN ACCORDANCE WITH §~~
25 ~~15.118.1 OF THIS SUBTITLE.~~

26 ~~(h) (1) The Secretary shall adopt regulations to implement the Program.~~

27 15-136.

28 (A) THE DEPARTMENT SHALL USE EXISTING RESOURCES TO ESTABLISH A
29 TOLL FREE MARYLAND PHARMACY ACCESS HOTLINE THAT:

30 (1) OPERATES DURING REGULAR BUSINESS HOURS; AND

31 (2) DURING NONBUSINESS HOURS ALLOWS CALLERS TO LEAVE A
32 MESSAGE.

33 (B) (1) THE DEPARTMENT SHALL DISTRIBUTE TO ALL PROGRAM
34 RECIPIENTS INFORMATION ABOUT THE MARYLAND PHARMACY ACCESS HOTLINE.

35 (2) THE INFORMATION SHALL STATE CLEARLY IN EASILY READABLE
36 PRINT;

1 (I) THE TOLL FREE TELEPHONE NUMBER OF THE HOTLINE; AND

2 (II) THAT THE PROGRAM RECIPIENT SHOULD CALL THE
3 TELEPHONE NUMBER IF THE PROGRAM RECIPIENT IS HAVING PROBLEMS GETTING
4 NECESSARY MEDICINES.

5 (C) THE DEPARTMENT SHALL NOTIFY ALL HEALTH CARE PROVIDERS WHO
6 PARTICIPATE IN THE PROGRAM ABOUT THE MARYLAND PHARMACY ACCESS
7 HOTLINE.

8 (D) THE DEPARTMENT SHALL:

9 (1) DEVELOP A METHODOLOGY TO TRACK THE NUMBER AND TYPE OF
10 CALLS RECEIVED BY THE MARYLAND PHARMACY ACCESS HOTLINE; AND

11 (2) PROVIDE A QUARTERLY REPORT TO THE PHARMACY AND
12 THERAPEUTICS COMMITTEE THAT SUMMARIZES THE NUMBER AND TYPE OF CALLS
13 RECEIVED BY THE MARYLAND PHARMACY ACCESS HOTLINE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2003.