
By: **Delegate Hubbard**

Introduced and read first time: February 24, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Assistance Program - Atypical Antipsychotic Medications**

3 FOR the purpose of prohibiting the Department of Health and Mental Hygiene from
4 establishing, within certain pharmacy assistance programs in the Maryland
5 Medical Assistance Program, prior authorization requirements for atypical
6 antipsychotic medications, including certain dosing specifications; providing
7 that the preferred drug list developed by the Department for the Program may
8 not include atypical antipsychotic medications; prohibiting the Department
9 from establishing certain dosing limits for atypical antipsychotic medications
10 prescribed under the Program; and generally relating to the Maryland Medical
11 Assistance Program and atypical antipsychotic medications.

12 BY repealing and reenacting, without amendments,
13 Article - Health - General
14 Section 15-101(a) and (h)
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article - Health - General
19 Section 15-119
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 15-124 and 15-124.1
25 Annotated Code of Maryland
26 (2000 Replacement Volume and 2004 Supplement)

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

1 **Article - Health - General**

2 15-101.

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

4 (h) "Program" means the Maryland Medical Assistance Program.

5 15-119.

6 (A) (1) THIS SECTION DOES NOT APPLY TO DRUGS COVERED BY MANAGED
7 CARE ORGANIZATIONS UNDER § 15-103 OF THIS SUBTITLE.8 (2) THIS SECTION APPLIES TO THE MARYLAND PHARMACY ASSISTANCE
9 PROGRAM DEVELOPED UNDER § 15-124 OF THIS SUBTITLE, THE MARYLAND
10 PHARMACY DISCOUNT PROGRAM DEVELOPED UNDER § 15-124.1 OF THIS SUBTITLE,
11 AND ANY OTHER PHARMACY ASSISTANCE PROGRAM DEVELOPED BY THE
12 DEPARTMENT.13 (B) (1) ATYPICAL ANTIPSYCHOTIC MEDICATIONS SHALL BE EXEMPT FROM
14 PRIOR AUTHORIZATION REQUIREMENTS UNDER THE PROGRAM.15 (2) THE PREFERRED DRUG LIST DEVELOPED BY THE DEPARTMENT MAY
16 NOT INCLUDE ATYPICAL ANTIPSYCHOTIC MEDICATIONS.

17 (C) THE DEPARTMENT MAY NOT:

18 (1) ESTABLISH MAXIMUM DAILY DOSING LIMITS FOR ATYPICAL
19 ANTIPSYCHOTIC MEDICATIONS PRESCRIBED UNDER THE PROGRAM; OR20 (2) REQUIRE PRIOR AUTHORIZATION OF DAILY DOSE SPECIFICATIONS
21 FOR ATYPICAL ANTIPSYCHOTIC MEDICATIONS PRESCRIBED UNDER THE PROGRAM.

22 15-124.

23 (a) The Department shall maintain a Maryland Pharmacy Assistance
24 Program for low income individuals whose:25 (1) Assets are not more than the level established by the Federal Centers
26 for Medicare and Medicaid Services under the Qualified Medicare Beneficiary
27 Program; and28 (2) Gross annual income does not exceed 116% of the federal poverty
29 guidelines for an individual or 100% of the federal poverty guidelines for a family of
30 two or more.31 (b) (1) (i) Reimbursement under the Maryland Pharmacy Assistance
32 Program may be limited to maintenance drugs, anti-infectives, and AZT as specified
33 in regulations to be issued by the Secretary after consultation with the Maryland
34 Pharmacists Association.

1 (ii) 1. For any drug on the Program's interchangeable drug list,
2 the Program shall reimburse providers in an amount not more than it would
3 reimburse for the drug's generic equivalent, unless the individual's physician states,
4 in his or her own handwriting, on the face of the prescription, that a specific brand is
5 "medically necessary" for the particular patient.

6 2. If an appropriate generic drug is not generally available,
7 the Department may waive the reimbursement requirement under
8 sub-subparagraph 1 of this subparagraph.

9 (2) The reimbursement shall be up to the amount paid for the same
10 items or services under the pharmacy program of the Maryland Medical Assistance
11 Program and shall be subject to a copayment of not more than:

12 (i) \$2.50 for a generic drug or a brand name drug on a preferred
13 drug list established by the Department; and

14 (ii) \$7.50 for a brand name drug not on a preferred drug list
15 established by the Department.

16 (c) (1) Except as provided under paragraph (4) of this subsection and unless
17 the change is made by an emergency regulation, the Maryland Pharmacy Assistance
18 Program shall notify all pharmacies under contract with the Program in writing of
19 changes in the Pharmaceutical Benefit Program rules or requirements at least 30
20 days before the change is effective.

21 (2) Changes that require 30 days' advance written notice under
22 paragraph (1) of this subsection are:

23 (i) Exclusion of coverage for classes of drugs as specified by
24 contract;

25 (ii) Changes in prior or preauthorization procedures; and

26 (iii) Selection of new prescription claims processors.

27 (3) If the Maryland Pharmacy Assistance Program fails to provide
28 advance notice as required under paragraph (1) of this subsection, it shall honor and
29 pay in full any claim under the Program rules or requirements that existed before the
30 change for 30 days after the postmarked date of the notice.

31 (4) Notwithstanding any other provision of law, the notice requirements
32 of this subsection do not apply to the addition of new generic drugs authorized under
33 § 12-504 of the Health Occupations Article.

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

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

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

8 (E) PRIOR AUTHORIZATION PROCEDURES OR LIMITATIONS DEVELOPED FOR
9 THE MARYLAND PHARMACY ASSISTANCE PROGRAM SHALL BE DEVELOPED IN
10 ACCORDANCE WITH § 15-119 OF THIS SUBTITLE.

11 [(e)] (F) The Secretary shall develop a program, in consultation with
12 appropriate agencies, that will provide information to ineligible Maryland Pharmacy
13 Assistance Program applicants regarding other programs that they may be eligible
14 for including the Maryland Medbank Program established under § 15-124.2 of this
15 subtitle and the Senior Prescription Drug Program established under Title 14,
16 Subtitle 5 of the Insurance Article.

17 15-124.1.

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

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

21 (3) "Program" means the Maryland Pharmacy Discount Program
22 established under this section.

23 (b) There is a Maryland Pharmacy Discount Program within the Maryland
24 Medical Assistance Program.

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

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

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

32 (2) Notwithstanding paragraph (1) of this subsection, enrollment in the
33 Maryland Medbank Program established under § 15-124.2 of this subtitle or the
34 Maryland Pharmacy Assistance Program established under § 15-124 of this subtitle
35 does not disqualify an individual from being eligible for the Program.

36 (f) (1) Subject to subsection (g) of this section, an enrollee may purchase
37 medically necessary prescription drugs that are covered under the Maryland Medical

1 Assistance Program from any pharmacy that participates in the Maryland Medical
2 Assistance Program at a price that is based on the price paid by the Maryland
3 Medical Assistance Program, minus the aggregate value of any federally mandated
4 manufacturers' rebates.

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

11 (g) The Department may establish mechanisms to:

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

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

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

19 (H) PRIOR AUTHORIZATION PROCEDURES OR LIMITATIONS DEVELOPED FOR
20 THE PROGRAM SHALL BE DEVELOPED IN ACCORDANCE WITH § 15-119 OF THIS
21 SUBTITLE.

22 [(h)] (I) The Secretary shall adopt regulations to implement the Program.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect October 1, 2005.