
By: ~~Delegate Hubbard~~ Delegates Hubbard, Benson, Boutin, Bromwell, Costa, Donoghue, Elliott, Frank, Goldwater, Hammen, Hurson, Kullen, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon

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Read second time: March 25, 2005

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program - ~~Atypical Antipsychotic Medications~~**
 3 **Pharmacy and Therapeutics Committee - Mental Health Medications**

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 for atypical~~
 7 ~~antipsychotic medications, including certain dosing specifications; providing~~
 8 ~~that the preferred drug list developed by the Department for the Program may~~
 9 ~~not include atypical antipsychotic medications; prohibiting the Department~~
 10 ~~from establishing certain dosing limits for atypical antipsychotic medications~~
 11 ~~prescribed under the Program; and generally relating to the Maryland Medical~~
 12 ~~Assistance Program and atypical antipsychotic medications.~~

13 FOR the purpose of requiring the Department of Health and Mental Hygiene to adopt
 14 certain regulations requiring the mental health subcommittee of the Pharmacy
 15 and Therapeutics Committee in the Department to conduct certain reviews,
 16 communicate certain information, and make certain recommendations to the
 17 Committee relating to mental health medications; requiring the Committee to
 18 include certain representatives of the mental health advocacy community on the
 19 mental health subcommittee; requiring the Department to submit a certain
 20 report to certain committees of the General Assembly on or before a certain date;
 21 and generally relating to mental health medications and the Pharmacy and
 22 Therapeutics Committee in the Department of Health and Mental Hygiene.

1 ~~BY repealing and reenacting, without amendments,~~
2 ~~Article Health General~~
3 ~~Section 15-101(a) and (h)~~
4 ~~Annotated Code of Maryland~~
5 ~~(2000 Replacement Volume and 2004 Supplement)~~

6 ~~BY adding to~~
7 ~~Article Health General~~
8 ~~Section 15-119~~
9 ~~Annotated Code of Maryland~~
10 ~~(2000 Replacement Volume and 2004 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~
12 ~~Article Health General~~
13 ~~Section 15-124 and 15-124.1~~
14 ~~Annotated Code of Maryland~~
15 ~~(2000 Replacement Volume and 2004 Supplement)~~

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

18 (a) (1) The Department of Health and Mental Hygiene shall adopt
19 regulations that require the mental health subcommittee of the Pharmacy and
20 Therapeutics Committee in the Department to:

21 (i) review the clinical appropriateness of mental health drugs to be
22 reviewed by the Committee and advise the Committee on selection of mental health
23 drugs for the Maryland Pharmacy Preferred Drug List;

24 (ii) recommend to the Committee cost-containment initiatives for
25 the Department to implement relating to mental health drugs;

26 (iii) communicate any new or amended Department policies to the
27 Committee before releasing this information to the public, including medical
28 professionals who discharge patients from hospitals;

29 (iv) advise the Committee on the communication of any changes to
30 the preferred drug list to medical professionals practicing in inpatient and outpatient
31 settings;

32 (v) recommend to the Committee optimal dosing amounts for
33 mental health medications;

34 (vi) recommend to the Committee methods to ensure that mental
35 health patients have access to necessary medications after being discharged from a
36 hospital; and

1 (vii) review complaints received by the Department pertaining to
2 problems in accessing mental health drugs, including drugs not on the preferred drug
3 list, and accessing brand-name drugs versus generic drugs.

4 (2) The Committee shall include representatives of the mental health
5 advocacy community on the mental health subcommittee.

6 (b) On or before December 31, 2005, the Department of Health and Mental
7 Hygiene shall report, in accordance with § 2-1246 of the State Government Article, to
8 the Senate Finance Committee and the House Health and Government Operations
9 Committee on steps taken by the Department to ensure that mental health patients
10 have access to necessary medications, including medications not on the Department's
11 preferred drug list.

12 ~~Article—Health—General~~

13 ~~15-101.~~

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

15 (h) ~~"Program" means the Maryland Medical Assistance Program.~~

16 ~~15-119.~~

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

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

24 (B) (1) ~~ATYPICAL ANTIPSYCHOTIC MEDICATIONS SHALL BE EXEMPT FROM~~
25 ~~PRIOR AUTHORIZATION REQUIREMENTS UNDER THE PROGRAM.~~

26 (2) ~~THE PREFERRED DRUG LIST DEVELOPED BY THE DEPARTMENT MAY~~
27 ~~NOT INCLUDE ATYPICAL ANTIPSYCHOTIC MEDICATIONS.~~

28 (C) ~~THE DEPARTMENT MAY NOT:~~

29 (1) ~~ESTABLISH MAXIMUM DAILY DOSING LIMITS FOR ATYPICAL~~
30 ~~ANTIPSYCHOTIC MEDICATIONS PRESCRIBED UNDER THE PROGRAM; OR~~

31 (2) ~~REQUIRE PRIOR AUTHORIZATION OF DAILY DOSE SPECIFICATIONS~~
32 ~~FOR ATYPICAL ANTIPSYCHOTIC MEDICATIONS PRESCRIBED UNDER THE PROGRAM.~~

1 ~~15-124.~~

2 (a) The Department shall maintain a Maryland Pharmacy Assistance
3 Program for low income individuals whose:

4 (1) Assets are not more than the level established by the Federal Centers
5 for Medicare and Medicaid Services under the Qualified Medicare Beneficiary
6 Program; and

7 (2) Gross annual income does not exceed 116% of the federal poverty
8 guidelines for an individual or 100% of the federal poverty guidelines for a family of
9 two or more.

10 (b) (1) (i) Reimbursement under the Maryland Pharmacy Assistance
11 Program may be limited to maintenance drugs, anti-infectives, and AZT as specified
12 in regulations to be issued by the Secretary after consultation with the Maryland
13 Pharmacists Association.

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

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

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

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

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

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

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

36 (i) Exclusion of coverage for classes of drugs as specified by
37 contract;

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

2 (iii) Selection of new prescription claims processors.

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

7 (4) Notwithstanding any other provision of law, the notice requirements
8 of this subsection do not apply to the addition of new generic drugs authorized under
9 § 12-504 of the Health Occupations Article.

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

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

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

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

23 ~~{(e)}~~ (F) The Secretary shall develop a program, in consultation with
24 appropriate agencies, that will provide information to ineligible Maryland Pharmacy
25 Assistance Program applicants regarding other programs that they may be eligible
26 for including the Maryland Medbank Program established under § 15-124.2 of this
27 subtitle and the Senior Prescription Drug Program established under Title 14,
28 Subtitle 5 of the Insurance Article.

29 ~~15-124.1.~~

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

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

33 (3) "Program" means the Maryland Pharmacy Discount Program
34 established under this section.

35 (b) There is a Maryland Pharmacy Discount Program within the Maryland
36 Medical Assistance Program.

1 (e) The purpose of the Program is to improve the health status of Medicare
2 beneficiaries who lack prescription drug coverage by providing access to lower cost,
3 medically necessary, prescription drugs.

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

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

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

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

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

24 (g) The Department may establish mechanisms to:

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

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

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

32 (H) ~~PRIOR AUTHORIZATION PROCEDURES OR LIMITATIONS DEVELOPED FOR~~
33 ~~THE PROGRAM SHALL BE DEVELOPED IN ACCORDANCE WITH § 15-119 OF THIS~~
34 ~~SUBTITLE.~~

35 ~~(h) (i) The Secretary shall adopt regulations to implement the Program.~~

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

