
By: **Senators Ruben, Britt, Brochin, Colburn, Conway, Della, Dyson,
Forehand, Frosh, Garagiola, Gladden, Green, Grosfeld, Hogan,
Hollinger, Hughes, Jimeno, Jones, Klausmeier, Lawlah, Middleton,
Munson, Pinsky, Stone, and Teitelbaum**

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Employees and Retirees - State Prescription Drug Benefit Plan -**
3 **Co-Payments for Brand-Name Prescription Drugs**

4 FOR the purpose of prohibiting the Prescription Drug Benefit Plan in the State
5 Employee and Retiree Health and Welfare Benefits Program from charging a
6 certain co-payment for a brand-name drug that is not preferred on the State's
7 prescription drug formulary under certain circumstances; providing for the
8 effective date of certain provisions of this Act; providing for the termination of
9 certain provisions of this Act; making certain conforming changes; and generally
10 relating to the Prescription Drug Benefit Plan in the State Employee and
11 Retiree Health and Welfare Benefits Program.

12 BY repealing and reenacting, with amendments,
13 Article - State Personnel and Pensions
14 Section 2-502
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - State Personnel and Pensions
19 Section 2-501(b), 2-502, and 2-503(b)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2005 Supplement)
22 (As enacted by Chapter 444 of the Acts of the General Assembly of 2005)

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

1 **Article - State Personnel and Pensions**

2 2-502.

3 (a) There is a State Employee and Retiree Health and Welfare Benefits
4 Program, to be developed and administered by the Secretary.

5 (b) (1) The Program:

6 (i) subject to the regulations adopted under § 2-503 of this subtitle,
7 shall encompass all units in the Executive, Judicial, and Legislative branches of State
8 government, including any unit with an independent personnel system;9 (ii) except as provided in subsection (c) of this section, shall include
10 the health insurance benefit options established by the Secretary; and11 (iii) except as provided in paragraph (2) of this subsection and
12 subsection (c) of this section, may include any other benefit option that the Secretary
13 considers appropriate.14 (2) The Program may not contain any of the benefits provided under
15 Division II or Title 35 or Title 37 of this article.16 (c) (1) Except as provided in paragraph (2) of this subsection, in fiscal years
17 2006 and 2007, the Program shall provide the same health insurance benefits options,
18 prescription drug benefit options, co-premiums and co-payments to employees and
19 retirees and their dependents as provided on January 1, 2005.

20 (2) In fiscal years 2006 and 2007:

21 (i) the employee or retiree share of the premium for the employee
22 or retiree and their dependents for the point of service health plan may increase to
23 17%;

24 (ii) the Program may include disease management programs;

25 (iii) the Prescription Drug Benefit Plan shall offer a voluntary mail
26 order option and the Prescription Drug Benefit Plan may charge enrollees the
27 following co-payments for prescription drugs:

28 1. \$5 for generic drugs;

29 2. \$15 for preferred drugs on the State formulary; and

30 3. EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
31 SUBSECTION, \$25 for drugs that are not preferred drugs on the State formulary;32 (iv) the Prescription Drug Benefit Plan may charge a co-payment
33 as provided in item (iii) of this subsection for each 45 day prescription;

1 (v) for each fiscal year, the total amount of co-payments charged
 2 the employee or retiree and their dependents as provided in item (iii) of this
 3 subsection may not exceed \$700; and

4 (vi) the Prescription Drug Benefit Plan may include the following
 5 programmatic changes:

6 1. implementation of a step therapy program to assure that
 7 lower cost alternatives are used first;

8 2. changes in the pharmacy network;

9 3. limitations on the first prescription for a maintenance
 10 drug;

11 4. limitations on the quantity of drugs dispensed to reduce
 12 inappropriate or excessive drug usage;

13 5. requirements for prior authorization of drugs to ensure
 14 that they are medically necessary; and

15 6. implementation of a drug utilization review program.

16 (3) THE PRESCRIPTION DRUG BENEFIT PLAN MAY NOT CHARGE AN
 17 ENROLLEE, FOR A BRAND-NAME DRUG THAT IS NOT A PREFERRED DRUG ON THE
 18 STATE FORMULARY, A CO-PAYMENT THAT IS HIGHER THAN THE CO-PAYMENT FOR A
 19 BRAND-NAME DRUG THAT IS A PREFERRED DRUG ON THE STATE FORMULARY IF:

20 (I) THERE IS NO GENERIC DRUG IDENTICAL TO THE BRAND-NAME
 21 DRUG THAT IS NOT A PREFERRED DRUG ON THE STATE FORMULARY; OR

22 (II) THE ENROLLEE'S HEALTH CARE PROVIDER DETERMINES THAT
 23 THE BRAND-NAME DRUG THAT IS NOT A PREFERRED DRUG ON THE STATE
 24 FORMULARY IS MEDICALLY NECESSARY FOR TREATMENT OF THE ENROLLEE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 26 read as follows:

27 **Article - State Personnel and Pensions**

28 2-501.

29 (b) (1) "Program" means the State Employee and Retiree Health and
 30 Welfare Benefits Program.

31 (2) "PROGRAM" INCLUDES THE STATE PRESCRIPTION DRUG BENEFIT
 32 PLAN.

1 2-502.

2 (a) There is a State Employee and Retiree Health and Welfare Benefits
3 Program, to be developed and administered by the Secretary.

4 (b) (1) The Program:

5 (i) subject to the regulations adopted under § 2-503 of this subtitle,
6 shall encompass all units in the Executive, Judicial, and Legislative branches of State
7 government, including any unit with an independent personnel system;

8 (ii) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
9 shall include the health insurance benefit options established by the Secretary; and

10 (iii) except as provided in paragraph (2) of this subsection AND
11 SUBSECTION (C) OF THIS SECTION, may include any other benefit option that the
12 Secretary considers appropriate.

13 (2) The Program may not contain any of the benefits provided under
14 Division II or Title 35 or Title 37 of this article.

15 (C) THE PRESCRIPTION DRUG BENEFIT PLAN MAY NOT CHARGE AN
16 ENROLLEE, FOR A BRAND-NAME DRUG THAT IS NOT A PREFERRED DRUG ON THE
17 STATE FORMULARY, A CO-PAYMENT THAT IS HIGHER THAN THE CO-PAYMENT FOR A
18 BRAND-NAME DRUG THAT IS A PREFERRED DRUG ON THE STATE FORMULARY IF:

19 (1) THERE IS NO GENERIC DRUG IDENTICAL TO THE BRAND-NAME
20 DRUG THAT IS NOT A PREFERRED DRUG ON THE STATE FORMULARY; OR

21 (2) THE ENROLLEE'S HEALTH CARE PROVIDER DETERMINES THAT THE
22 BRAND-NAME DRUG THAT IS NOT A PREFERRED DRUG ON THE STATE FORMULARY IS
23 MEDICALLY NECESSARY FOR TREATMENT OF THE ENROLLEE.

24 2-503.

25 (b) [The] EXCEPT AS OTHERWISE PROVIDED BY LAW, THE Secretary may
26 arrange as the Secretary considers appropriate any benefit option for inclusion in the
27 Program.

28 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
29 take effect on the taking effect of the termination provision specified in Section 43 of
30 Chapter 444 of the Acts of the General Assembly of 2005. If that termination provision
31 takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.
32 This Act may not be interpreted to have any effect on that termination provision.

33 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
34 of Section 3 of this Act, this Act shall take effect July 1, 2006.