Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 888 (Delegate Kach, *et al.*)
Health and Government Operations Finance

Health Insurance - Prescription Eye Drops - Refills

This bill requires insurers, nonprofit health service plans, and health maintenance organizations that provide coverage for prescription eye drops to provide coverage for a refill of prescription eye drops in accordance with guidance for early refills of topical ophthalmic products provided to Medicare Part D plan sponsors by the federal Centers for Medicare and Medicaid Services (CMS) if (1) the prescriber indicates on the original prescription that additional quantities of the eye drops are needed; (2) the refill does not exceed the number of additional quantities indicated on the original prescription; and (3) the prescription eye drops are a covered benefit under the policy or contract of the insured.

The bill applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2011.

Fiscal Summary

State Effect: Potential minimal increase in expenditures for the State Employee and Retiree Health and Welfare Benefits Plan (State plan) beginning in FY 2013 to provide additional prescription eye drop refills to enrollees. Any increase is anticipated to be negligible. Revenues are not affected.

Local Effect: The bill does not materially affect local government finances.

Small Business Effect: None. The bill does not apply to the small group market.

Analysis

Current Law: A pharmacist may not refill and dispense a prescription unless the refill is authorized by (1) the health care practitioner's specification in the original prescription as to how many times it may be refilled; or (2) an oral order of the health care practitioner that promptly is written out and filed by the pharmacist. The dispensing of a drug that does not comply with these requirements is the dispensing of a misbranded drug.

Background: Most prescriptions are provided in 30- or 90-day quantities to patients. Typically, the industry standard for refilling a prescription is that a patient must have used 75% of their medication for a refill from a retail pharmacy or 65% for a refill from a mail-order pharmacy. Some carriers may require more stringent refill rules. Refill limitations are used to prevent misuse or abuse of prescription medications.

The Medicare prescription drug plan is known as Medicare Part D. Per a June 2010 memorandum, CMS recommends that Medicare Part D plan sponsors allow the following for topical ophthalmic products:

- permit refills at 70% of the predicted days of use;
- ensure that the refill allowances are the same regardless of purchase through retail or mail-order sources; and
- permit physicians to authorize earlier refills than 70% days of use for particular beneficiaries who continue to have difficulty with inadvertent wastage.

According to the Maryland Society of Eye Physicians and Surgeons, a patient's supply of prescription eye drops often runs out early due to lack of standard titration in eye droppers, an insufficient amount of medication in a bottle, and large wastage of eye drops when applied by patients with poor vision. Patients who run out of prescription eye drops before a prescription refill is allowed may leave their condition untreated for several days.

Additional Information

Prior Introductions: None.

Cross File: SB 701 (Senator Klausmeier) - Finance.

Information Source(s): Centers for Medicare and Medicaid Services, Department of Budget and Management, Department of Health and Mental Hygiene, Maryland Health Insurance Plan, Maryland Insurance Administration, Maryland Society of Eye Physicians and Surgeons, Department of Legislative Services

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