

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1338 (Delegate Kipke, *et al.*)
Health and Government Operations

Finance

Health Insurance - Pharmacy Benefits Managers - Claims

This bill specifies that a clerical, recordkeeping, typographical, or scrivener's error in a required document or record does not constitute fraud or grounds for recoupment of a claims payment from a pharmacy or pharmacist by a pharmacy benefits manager (PBM) if the prescription was otherwise legally dispensed and the claim was otherwise materially correct. However, claims remain subject to recoupment of "overpayment" or payment of any undiscovered underpayment by the PBM.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

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

Small Business Effect: Potential minimal.

Analysis

Bill Summary: "Overpayment" means a payment by the PBM to a pharmacy or pharmacist that is greater than the rate or terms specified in the contract between the PBM and the pharmacy or pharmacist at the time the payment is made.

Current Law/Background: PBMs are businesses that administer and manage prescription drug benefit plans for purchasers. PBMs must register with the Maryland Insurance Administration prior to providing pharmacy benefits management services. The Insurance Commissioner is authorized to examine the affairs, transactions, accounts, and records of a registered PBM at the PBM's expense.

A PBM may not use extrapolation to calculate overpayments or underpayments. Recoupment of claims payments must be based on actual overpayment or denial of an audited claim unless the projected overpayment or denial is part of a settlement agreed to by the pharmacy or pharmacist.

There are 31 registered PBMs in Maryland. The bill is intended to prohibit a PBM from denying a claim outright based on a minor error. It is based on legislation enacted in Missouri in 2010.

Additional Information

Prior Introductions: None.

Cross File: SB 974 (Senator Astle) - Finance.

Information Source(s): Department of Budget and Management, Maryland Health Insurance Plan, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 31, 2011
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