

HOUSE BILL 1241

C3, J2

6lr3481

By: **Delegates Kipke and Bromwell**

Introduced and read first time: February 12, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Contracts With and Reimbursement of**
3 **Pharmacists**

4 FOR the purpose of requiring each initial and renewal contract between a pharmacy
5 benefits manager and a contracted pharmacy to include the sources used to
6 determine maximum allowable cost pricing; requiring a pharmacy benefits manager
7 to update its pricing information at certain intervals and for a certain purpose;
8 specifying the format in which certain pricing updates must be provided by a
9 pharmacy benefits manager to a contracted pharmacy; requiring a pharmacy
10 benefits manager, within a certain time period after a certain pricing information
11 update, to reimburse a contracted pharmacy for certain drugs based on the updated
12 pricing information; altering the procedure that a pharmacy benefits manager must
13 maintain to eliminate products from a certain list of drugs; requiring the procedure
14 to eliminate products from the list to remain consistent with the availability of the
15 products in the marketplace and to eliminate products from the list within a certain
16 period of time; altering the requirements that must be met before a prescription drug
17 is placed on a maximum allowable cost list by a pharmacy benefits manager; altering
18 the requirements for a process to appeal, investigate, and resolve certain disputes
19 that must be included in each contract between a pharmacy benefits manager and a
20 contracted pharmacy; altering a certain definition; and generally relating to
21 contracts between pharmacy benefits managers and pharmacists and
22 reimbursement of pharmacists by pharmacy benefits managers.

23 BY repealing and reenacting, with amendments,
24 Article – Insurance
25 Section 15–1628.1
26 Annotated Code of Maryland
27 (2011 Replacement Volume and 2015 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Insurance

15–1628.1.

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

(2) “Contracted pharmacy” means a pharmacy that participates in the network of a pharmacy benefits manager through a contract with:

(i) the pharmacy benefits manager; or

(ii) a pharmacy services administration organization or a group purchasing organization.

(3) “Maximum allowable cost” means the maximum amount that a pharmacy benefits manager or a purchaser will reimburse a contracted pharmacy for the cost of a multisource generic drug, a medical product, or a device.

(4) “Maximum allowable cost list” means a list of [multisource generic] drugs, medical products, and devices for which a maximum allowable cost has been established by a pharmacy benefits manager or a purchaser **AND ON WHICH REIMBURSEMENT TO A CONTRACTED PHARMACY IS BASED.**

(b) In each **INITIAL AND RENEWAL** contract between a pharmacy benefits manager and a contracted pharmacy, the pharmacy benefits manager shall include the sources used to determine maximum allowable cost pricing.

(c) **(1)** A pharmacy benefits manager shall:

(I) AT LEAST EVERY 7 DAYS, update its pricing information TO ENSURE THAT IT REMAINS CONSISTENT WITH PRICING CHANGES AND AVAILABILITY IN THE MARKETPLACE [at least every 7 days]; and

(II) provide a means by which contracted pharmacies may promptly review pricing updates in a WEB–BASED OR ELECTRONIC format that is readily available, SEARCHABLE, and accessible.

(2) WITHIN 3 BUSINESS DAYS AFTER A PRICING INFORMATION UPDATE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, A PHARMACY BENEFITS MANAGER SHALL REIMBURSE A CONTRACTED PHARMACY FOR DRUGS SUBJECT TO MAXIMUM ALLOWABLE COST PRICING BASED ON THE UPDATED PRICING INFORMATION.

1 (d) (1) A pharmacy benefits manager shall maintain a procedure to eliminate
2 products from the list of drugs subject to maximum allowable cost pricing [in a timely
3 manner] to remain consistent with pricing changes **AND AVAILABILITY** in the
4 marketplace.

5 (2) **A PRODUCT ON THE LIST OF DRUGS SUBJECT TO MAXIMUM
6 ALLOWABLE COST PRICING SHALL BE ELIMINATED FROM THE LIST BY THE
7 PHARMACY BENEFITS MANAGER WITHIN 24 HOURS AFTER THE PHARMACY
8 BENEFITS MANAGER KNEW OR SHOULD HAVE KNOWN OF A CHANGE IN THE PRICING
9 OR AVAILABILITY OF THE PRODUCT.**

10 (e) Before placing a prescription drug on a maximum allowable cost list, a
11 pharmacy benefits manager shall ensure that:

12 (1) the drug is listed as “A” or [“B”] **“AB”** rated in the most recent version
13 of the U.S. Food and Drug Administration’s approved drug products with therapeutic
14 equivalence evaluations, also known as the Orange Book[, or has an “NR” or “NA” rating
15 or similar rating by a nationally recognized reference]; and

16 (2) the drug is [generally] available for purchase by contracted
17 pharmacies, **INCLUDING CONTRACTED RETAIL PHARMACIES**, in the State from a
18 national or regional wholesale distributor and is not obsolete.

19 (f) Each contract between a pharmacy benefits manager and a contracted
20 pharmacy must include a process to appeal, investigate, and resolve disputes regarding
21 maximum allowable cost pricing that includes:

22 (1) a requirement that an appeal be filed **BY THE CONTRACTED
23 PHARMACY** no later than 21 days after the date of the initial **ADJUDICATED** claim;

24 (2) a requirement that [an appeal be investigated and resolved], within 21
25 days after the date the appeal is filed, **THE PHARMACY BENEFITS MANAGER
26 INVESTIGATE AND RESOLVE THE APPEAL AND REPORT TO THE CONTRACTED
27 PHARMACY ON THE PHARMACY BENEFITS MANAGER’S DETERMINATION ON THE
28 APPEAL;**

29 (3) a **DIRECT** telephone number at which the contracted pharmacy may
30 contact the pharmacy benefits manager to speak to an individual **SPECIFICALLY**
31 responsible for processing appeals;

32 (4) a requirement that a pharmacy benefits manager provide:

33 (i) a reason for any appeal denial; and

1 (ii) the national drug code of a drug that **IS READILY AVAILABLE**
2 **FOR PURCHASE AND THE NAME OF THE WHOLESALE DISTRIBUTOR FROM WHICH THE**
3 **DRUG** may be purchased by the contracted pharmacy at a price at or below the [benchmark
4 price] **MAXIMUM ALLOWABLE COST** determined by the pharmacy benefits manager; and

5 (5) if an appeal is upheld, a requirement that a pharmacy benefits
6 manager:

7 (i) make the [change] **CORRECTION** in the maximum allowable
8 cost no later than 1 business day after the date of determination on the appeal; and

9 (ii) permit the appealing contracting pharmacy to reverse and rebill
10 the claim, **RETROACTIVE TO THE DATE THE CLAIM WAS ORIGINALLY ADJUDICATED,**
11 and **HAVE THE CORRECTION BE EFFECTIVE AS TO** any subsequent similar claims.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2016.