

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1103 (Delegate Kipke, *et al.*)
Health and Government Operations

Health Insurance and Pharmacy Benefits Managers - Reimbursement for and
Provision of Pharmacy Services

This bill authorizes a pharmacist or a pharmacy to decline to dispense a prescription drug or provide a pharmacy service to a “member” if the amount reimbursed by a specified entity is less than the pharmacy acquisition cost. A “member” is an individual entitled to health care benefits for prescription drugs or pharmacy services under a policy or contract issued or delivered in Maryland; the bill applies to reimbursement provided by an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) that provides such coverage, including through a pharmacy benefits manager (PBM). A PBM may not reimburse a pharmacy or a pharmacist for a product or pharmacy service in an amount less than the amount the PBM reimburses itself or an affiliate for the same product or service.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations, including the Maryland Insurance Administration (MIA) and the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: None.

Small Business Effect: Meaningful for small business pharmacies.

Analysis

Current Law: PBMs are businesses that administer and manage prescription drug benefit plans for purchasers. PBMs must register with MIA prior to providing pharmacy benefit management services. The Insurance Commissioner is authorized to examine the affairs,

transactions, accounts, and records of a registered PBM at the PBM's expense. PBMs are prohibited from shipping, mailing, or delivering prescription drugs or devices to a person in the State through a nonresident pharmacy unless the nonresident pharmacy holds a nonresident pharmacy permit from the State Board of Pharmacy.

Before entering into a contract with a purchaser, a PBM must disclose certain information. A PBM must offer to provide a purchaser with any rebate-sharing contracts the PBM has with drug manufacturers. A PBM must also provide certain disclosures prior to entering into a contract with a pharmacy or pharmacist. A PBM must take certain actions prior to placing a drug on a maximum allowable cost (MAC) list and must provide pharmacies with a process to appeal, investigate, and resolve disputes regarding MAC pricing.

Background: According to the National Community Pharmacists Association, PBM contracts frequently require community pharmacists to dispense some drugs at a financial loss, often due to imposition of MAC, which acts as a cap on pharmacy reimbursement. In 2016, Mississippi enacted legislation that permits a pharmacy to refuse to provide drugs or services if it is not paid more than acquisition cost. If a pharmacy declines to dispense a drug, the pharmacy must provide the customer with information on where his or her prescription can be filled.

Additional Comments: House Bill 1242 of 2016 would have prohibited a PBM from reimbursing a pharmacy or pharmacist in an amount less than the amount that the PBM reimburses itself or an affiliate for the same product or service. Under the bill, a pharmacy or pharmacist could have declined to provide a product or service to a patient or PBM if, as a result of MAC, the pharmacy or pharmacist would be paid less than the acquisition cost.

Additional Information

Prior Introductions: None.

Cross File: SB 1055 (Senators Mathias and Klausmeier) - Finance.

Information Source(s): Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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