

# SENATE BILL 1079

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CF HB 1349

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By: **Senator Mathias**

Introduced and read first time: February 12, 2018

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Revisions**

3 FOR the purpose of altering the application fee for a pharmacy benefits manager to register  
4 with the Maryland Insurance Commissioner; requiring a pharmacy benefits  
5 manager applying to register to file a certain financial statement with the  
6 Commissioner; authorizing the Commissioner to require certain additional  
7 information from a pharmacy benefits manager in a certain application; altering the  
8 date on which the registration of a pharmacy benefits manager expires unless the  
9 registration is renewed; altering the length of the term for which a pharmacy benefits  
10 manager may renew a certain registration; altering the circumstances under which  
11 a pharmacy benefits manager may renew a registration; authorizing the  
12 Commissioner to impose certain fees under certain circumstances; authorizing the  
13 Commissioner to require certain information or certain submissions from a  
14 pharmacy benefits manager for a certain purpose; authorizing a pharmacy benefits  
15 manager to pay a certain fee in lieu of a certain suspension under certain  
16 circumstances; authorizing a pharmacy benefits manager to reapply for a  
17 registration under certain circumstances; prohibiting certain reimbursement from a  
18 pharmacy benefits manager to a pharmacy or pharmacist for a certain product or  
19 certain service; prohibiting a pharmacy benefits manager from prohibiting a  
20 pharmacy or pharmacist from providing a beneficiary with certain information  
21 regarding a certain retail price or certain cost share for a prescription drug;  
22 prohibiting a pharmacy benefits manager from prohibiting a pharmacy or  
23 pharmacist from discussing with a beneficiary a certain retail price or certain cost  
24 share for a prescription drug; prohibiting a pharmacy benefits manager from  
25 prohibiting a pharmacy or pharmacist from selling a certain alternative prescription  
26 drug under certain circumstances; prohibiting a pharmacy benefits manager from  
27 prohibiting a pharmacy or pharmacist from offering and providing store direct  
28 delivery services as an ancillary service of the pharmacy; requiring each contract  
29 between a pharmacy benefits manager and a contracted pharmacy to include the  
30 methodology used to determine maximum allowable cost pricing; requiring a  
31 pharmacy benefits manager to disclose certain information to a contracted pharmacy

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 under certain circumstances; requiring a pharmacy benefits manager to provide a  
 2 certain means on its website by which certain contracted pharmacies may promptly  
 3 review certain pricing updates, to use certain pricing information to calculate certain  
 4 payments, and to disclose certain information in certain contracts; requiring a  
 5 pharmacy benefits manager to disclose a certain maximum allowable cost list under  
 6 certain circumstances; altering a certain procedure that a pharmacy benefits  
 7 manager is required to maintain; altering certain requirements that a pharmacy  
 8 benefits manager must meet before placing a prescription drug on a certain list;  
 9 prohibiting a pharmacy benefits manager from setting a maximum allowable cost for  
 10 certain drugs, products, and devices that are placed on a certain list that is below a  
 11 certain amount; altering a certain process that must be included in each contract  
 12 between a pharmacy benefits manager and a contracted pharmacy; authorizing a  
 13 contracted pharmacy to file a certain complaint with the Commissioner; requiring a  
 14 contracted pharmacy to exhaust a certain appeal process before filing a certain  
 15 complaint; requiring the Commissioner to hold a certain hearing and issue a certain  
 16 order in accordance with certain procedures; providing that an appeal of a certain  
 17 order may be taken in accordance with certain statutory provisions; prohibiting a  
 18 pharmacy benefits manager from retaliating against a contracted pharmacy for filing  
 19 a certain complaint; prohibiting a pharmacy benefits manager from charging a  
 20 contracted pharmacy a certain fee; establishing a certain civil penalty for a violation  
 21 of certain provisions of this Act; defining a certain term; altering a certain definition;  
 22 providing for the construction of certain provisions of this Act; providing for the  
 23 application of this Act; providing for a delayed effective date; and generally relating  
 24 to pharmacy benefits managers.

25 BY repealing and reenacting, with amendments,

26 Article – Insurance

27 Section 15–1604, 15–1605, 15–1607, 15–1628.1, and 15–1642(c)

28 Annotated Code of Maryland

29 (2017 Replacement Volume)

30 BY adding to

31 Article – Insurance

32 Section 15–1611, 15–1612, and 15–1612.1

33 Annotated Code of Maryland

34 (2017 Replacement Volume)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

36 That the Laws of Maryland read as follows:

37 **Article – Insurance**

38 15–1604.

39 (a) A pharmacy benefits manager shall register with the Commissioner as a  
 40 pharmacy benefits manager before providing pharmacy benefits management services in  
 41 the State to purchasers.

1 (b) An applicant for registration shall:

2 (1) file with the Commissioner an application on the form that the  
3 Commissioner provides; [and]

4 (2) pay to the Commissioner a registration fee [set by the Commissioner]  
5 **OF \$1,000; AND**

6 **(3) FILE WITH THE COMMISSIONER A FINANCIAL STATEMENT,**  
7 **CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT WITHIN THE IMMEDIATELY**  
8 **PRECEDING 6 MONTHS, THAT PRESENTS, IN ACCORDANCE WITH GENERALLY**  
9 **ACCEPTED ACCOUNTING PRINCIPLES, THE FINANCIAL POSITION OF THE APPLICANT**  
10 **AND CONTAINS THE INFORMATION THAT THE COMMISSIONER REQUIRES.**

11 **(C) THE COMMISSIONER MAY REQUIRE ANY ADDITIONAL INFORMATION OR**  
12 **SUBMISSIONS FROM A PHARMACY BENEFITS MANAGER THAT MAY BE REASONABLY**  
13 **NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THE APPLICATION.**

14 **[(c)] (D)** Subject to the provisions of § 15–1607 of this part, the Commissioner  
15 shall register each pharmacy benefits manager that meets the requirements of this section.

16 15–1605.

17 (a) A pharmacy benefits manager registration expires on [the second] September  
18 30 after its effective date unless it is renewed as provided under this section.

19 (b) A pharmacy benefits manager may renew its registration for an additional  
20 **[2–year] 1–YEAR** term, if the pharmacy benefits manager:

21 (1) otherwise is entitled to be registered;

22 (2) files with the Commissioner a renewal application on the form that the  
23 Commissioner requires; [and]

24 (3) pays to the Commissioner a renewal fee [set by the Commissioner] **OF**  
25 **\$1,000; AND**

26 **(4) FILES WITH THE COMMISSIONER A FINANCIAL STATEMENT**  
27 **CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT WITHIN THE IMMEDIATELY**  
28 **PRECEDING 6 MONTHS, THAT PRESENTS, IN ACCORDANCE WITH GENERALLY**  
29 **ACCEPTED ACCOUNTING PRINCIPLES, THE FINANCIAL POSITION OF THE APPLICANT**  
30 **AND CONTAINS THE INFORMATION THAT THE COMMISSIONER REQUIRES.**

31 (c) An application for renewal of a pharmacy benefits manager registration shall

1 be considered made in a timely manner if it is postmarked on or before the date the  
2 pharmacy benefits manager's registration expires.

3 **(D) IF A PHARMACY BENEFITS MANAGER FAILS TO PAY THE RENEWAL FEE**  
4 **REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION WHEN THE PHARMACY**  
5 **BENEFITS MANAGER SUBMITS AN APPLICATION FOR RENEWAL, THE COMMISSIONER**  
6 **MAY IMPOSE AN ADDITIONAL APPLICATION FEE OF \$500.**

7 **[(d)] (E)** Subject to the provisions of § 15–1607 of this part, the Commissioner  
8 shall renew the registration of each pharmacy benefits manager that meets the  
9 requirements of this section.

10 **(F) THE COMMISSIONER MAY REQUIRE ANY ADDITIONAL INFORMATION OR**  
11 **SUBMISSIONS FROM A PHARMACY BENEFITS MANAGER THAT MAY BE REASONABLY**  
12 **NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THE APPLICATION.**

13 15–1607.

14 (a) **(1)** Subject to **PARAGRAPH (2) OF THIS SUBSECTION AND** the hearing  
15 provisions of Title 2 of this article, the Commissioner may deny a registration to a pharmacy  
16 benefits manager applicant or refuse to renew, suspend, or revoke the registration of a  
17 pharmacy benefits manager if the pharmacy benefits manager, or an officer, director, or  
18 employee of the pharmacy benefits manager:

19 **[(1)] (I)** makes a material misstatement or misrepresentation in an  
20 application for registration;

21 **[(2)] (II)** fraudulently or deceptively obtains or attempts to obtain a  
22 registration;

23 **[(3)] (III)** in connection with the administration of pharmacy benefits  
24 management services, commits fraud or engages in illegal or dishonest activities; or

25 **[(4)] (IV)** violates any provision of this part or a regulation adopted under  
26 this part.

27 **(2) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A**  
28 **PHARMACY BENEFITS MANAGER MAY, IN LIEU OF PART OR ALL OF THE DAYS OF ANY**  
29 **SUSPENSION PERIOD IMPOSED BY THE COMMISSIONER, PAY A FEE OF \$1,000 PER**  
30 **DAY OF THE SUSPENSION PERIOD.**

31 **(B) IF THE COMMISSIONER'S DENIAL OR REVOCATION OF A PHARMACY**  
32 **BENEFITS MANAGER'S REGISTRATION IS SUSTAINED BY THE COMMISSIONER AFTER**  
33 **A HEARING IN ACCORDANCE WITH TITLE 2 OF THIS ARTICLE, A PHARMACY BENEFITS**  
34 **MANAGER MAY REAPPLY FOR A REGISTRATION NO EARLIER THAN 1 YEAR AFTER**

1 THE DATE ON WHICH A DENIAL OR REVOCATION WAS SUSTAINED BY THE  
2 COMMISSIONER.

3       **[(b)] (C)** This section does not limit any other regulatory authority of the  
4 Commissioner under this article.

5 **15-1611.**

6       **A PHARMACY BENEFITS MANAGER MAY NOT REIMBURSE A PHARMACY OR**  
7 **PHARMACIST FOR A PHARMACEUTICAL PRODUCT OR PHARMACIST SERVICE IN AN**  
8 **AMOUNT LESS THAN THE AMOUNT THAT THE PHARMACY BENEFITS MANAGER**  
9 **REIMBURSES ITSELF OR AN AFFILIATE FOR PROVIDING THE SAME PRODUCT OR**  
10 **SERVICE.**

11 **15-1612.**

12       **IN ADDITION TO THE REGISTRATION AND RENEWAL FEES ESTABLISHED**  
13 **UNDER §§ 15-1604 AND 15-1605 OF THIS SUBTITLE, THE COMMISSIONER MAY**  
14 **REQUIRE A PHARMACY BENEFITS MANAGER TO PAY A FEE SET BY THE**  
15 **COMMISSIONER TO COVER THE COSTS OF IMPLEMENTATION AND ENFORCEMENT OF**  
16 **THIS SUBTITLE, INCLUDING FEES TO COVER THE COSTS OF:**

17               **(1) SALARIES AND BENEFITS PAID TO PERSONNEL ENGAGED IN THE**  
18 **IMPLEMENTATION AND ENFORCEMENT OF THIS SUBTITLE;**

19               **(2) REASONABLE TECHNOLOGY COSTS RELATING TO THE**  
20 **ENFORCEMENT OF THIS SUBTITLE, INCLUDING THE COSTS OF:**

21                       **(I) SOFTWARE AND HARDWARE USED IN THE ENFORCEMENT**  
22 **PROCESS; AND**

23                       **(II) TRAINING PERSONNEL IN THE PROPER USE OF THE**  
24 **SOFTWARE OR HARDWARE; AND**

25               **(3) EDUCATION AND TRAINING FOR PERSONNEL ENGAGED IN THE**  
26 **ENFORCEMENT OF THIS SUBTITLE TO MAINTAIN PROFICIENCY AND COMPETENCE.**

27 **15-1612.1.**

28       **(A) A PHARMACY BENEFITS MANAGER MAY NOT PROHIBIT A PHARMACY OR**  
29 **PHARMACIST FROM:**

30               **(1) PROVIDING A BENEFICIARY WITH INFORMATION REGARDING THE**

1 RETAIL PRICE FOR A PRESCRIPTION DRUG OR THE AMOUNT OF THE COST SHARE  
2 FOR WHICH THE BENEFICIARY IS RESPONSIBLE FOR A PRESCRIPTION DRUG;

3 (2) DISCUSSING WITH A BENEFICIARY INFORMATION REGARDING  
4 THE RETAIL PRICE FOR A PRESCRIPTION DRUG OR THE AMOUNT OF THE COST  
5 SHARE FOR WHICH THE BENEFICIARY IS RESPONSIBLE FOR A PRESCRIPTION DRUG;

6 (3) IF A MORE AFFORDABLE DRUG IS AVAILABLE THAN ONE ON THE  
7 PURCHASER'S FORMULARY AND THE REQUIREMENTS FOR A THERAPEUTIC  
8 INTERCHANGE UNDER §§ 15-1633 THROUGH 15-1639 OF THIS SUBTITLE ARE MET,  
9 SELLING THE MORE AFFORDABLE ALTERNATIVE TO THE BENEFICIARY; OR

10 (4) OFFERING AND PROVIDING STORE DIRECT DELIVERY SERVICES  
11 TO AN ENROLLEE AS AN ANCILLARY SERVICE OF THE PHARMACY.

12 (B) THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE REQUIREMENTS  
13 FOR A THERAPEUTIC INTERCHANGE UNDER §§ 15-1633 THROUGH 15-1639 OF THIS  
14 SUBTITLE.

15 15-1628.1.

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

17 (2) "Contracted pharmacy" means a pharmacy that participates in the  
18 network of a pharmacy benefits manager through a contract with:

19 (i) the pharmacy benefits manager; or

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

22 (3) "DRUG SHORTAGE LIST" MEANS A LIST OF DRUG PRODUCTS SOLD  
23 AT A DISCOUNT WITH AN EXPIRATION DATE OF LESS THAN 1 YEAR FROM THE DATE  
24 OF PURCHASE BY THE CONTRACTED PHARMACY.

25 [(3)] (4) (I) "Maximum allowable cost" means the maximum amount  
26 that a pharmacy benefits manager or a purchaser will reimburse a contracted pharmacy  
27 for the cost of a multisource generic drug, a medical product, or a device.

28 (II) "MAXIMUM ALLOWABLE COST" DOES NOT INCLUDE  
29 DISPENSING FEES.

30 [(4)] (5) "Maximum allowable cost list" means a list of multisource  
31 generic drugs, medical products, and devices for which a maximum allowable cost has been  
32 established by a pharmacy benefits manager or a purchaser.

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

4 (c) (1) **A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE**  
5 **CONTRACTED PHARMACY WHETHER THE PHARMACY BENEFITS MANAGER IS USING**  
6 **AN IDENTICAL MAXIMUM ALLOWABLE COST LIST WITH ANY OTHER CONTRACTED**  
7 **PHARMACY.**

8 (2) **IF A PHARMACY BENEFITS MANAGER USES A DIFFERENT**  
9 **MAXIMUM ALLOWABLE COST LIST WITH ANOTHER CONTRACTED PHARMACY, THE**  
10 **PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE CONTRACT PHARMACY**  
11 **ANY DIFFERENCES BETWEEN THE AMOUNT PAID TO ANY CONTRACTED PHARMACY**  
12 **AND THE AMOUNT CHARGED TO THE PURCHASER.**

13 [(c)] (D) A pharmacy benefits manager shall:

14 (1) update its pricing information at least every 7 days and provide a means  
15 **ON THE PHARMACY BENEFITS MANAGER'S WEBSITE** by which **ALL** contracted  
16 pharmacies may promptly review pricing updates in a format that is readily available and  
17 accessible **AT THE TIME THE PHARMACY BENEFITS MANAGER UPDATES THE LIST FOR**  
18 **ITS OWN USE;**

19 (2) **IMMEDIATELY AFTER A PRICING INFORMATION UPDATE UNDER**  
20 **ITEM (1) OF THIS SUBSECTION, USE THE UPDATED PRICING INFORMATION IN**  
21 **CALCULATING THE PAYMENTS MADE TO ALL CONTRACTED PHARMACIES; AND**

22 (3) **DISCLOSE IN EACH CONTRACT BETWEEN THE PHARMACY**  
23 **BENEFITS MANAGER AND A CONTRACTED PHARMACY WHETHER THE PHARMACY**  
24 **BENEFITS MANAGER USES A DIFFERENT MAXIMUM ALLOWABLE COST LIST FOR**  
25 **DRUGS, PRODUCTS, OR DEVICES DISPENSED AT RETAIL PHARMACIES THAN FOR**  
26 **DRUGS, PRODUCTS, OR DEVICES DISPENSED BY MAIL.**

27 (E) **A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A CONTRACTED**  
28 **PHARMACY A MAXIMUM ALLOWABLE COST LIST USED BY THE PHARMACY BENEFITS**  
29 **MANAGER FOR DRUGS, PRODUCTS, OR DEVICES DISPENSED BY MAIL IF THE**  
30 **MAXIMUM ALLOWABLE COST LIST IS:**

31 (1) **DIFFERENT THAN THE MAXIMUM ALLOWABLE COST LIST USED BY**  
32 **THE PHARMACY BENEFITS MANAGER FOR DRUGS, PRODUCTS, OR DEVICES**  
33 **DISPENSED AT RETAIL PHARMACIES; AND**

34 (2) **ADOPTED BY THE PHARMACY BENEFITS MANAGER AFTER**

1 **EXECUTING A CONTRACT WITH THE CONTRACTED PHARMACY.**

2 **[(d)] (F) (1)** A pharmacy benefits manager shall maintain a procedure to  
3 eliminate products from the list of drugs subject to maximum allowable cost pricing [in a  
4 timely manner] **AS NECESSARY** to:

5 **(I)** remain consistent with pricing changes;

6 **(II) REMOVE FROM THE LIST DRUGS THAT NO LONGER MEET**  
7 **THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION; AND**

8 **(III) ENSURE THE AVAILABILITY OF DRUGS** in the marketplace.

9 **(2) A PRODUCT ON THE MAXIMUM ALLOWABLE COST LIST SHALL BE**  
10 **ELIMINATED FROM THE LIST BY THE PHARMACY BENEFITS MANAGER WITHIN 24**  
11 **HOURS AFTER THE PHARMACY BENEFITS MANAGER KNOWS OR SHOULD HAVE**  
12 **KNOWN OF A CHANGE IN THE PRICING OR AVAILABILITY OF THE PRODUCT.**

13 **[(e)] (G)** Before placing a prescription drug on a maximum allowable cost list, a  
14 pharmacy benefits manager shall ensure that:

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

19 (2) the drug is [generally] available **IN AT LEAST THREE GENERICALLY**  
20 **EQUIVALENT OR BIOEQUIVALENT VERSIONS** for purchase by contracted pharmacies,  
21 **INCLUDING CONTRACTED RETAIL PHARMACIES**, in the State from a [national or  
22 regional] wholesale distributor [and is not obsolete] **WITH A PERMIT IN THE STATE; AND**

23 **(3) THE DRUG IS NOT OBSOLETE, TEMPORARILY UNAVAILABLE, OR**  
24 **LISTED ON A DRUG SHORTAGE LIST.**

25 **(H) A PHARMACY BENEFITS MANAGER MAY NOT SET THE MAXIMUM**  
26 **ALLOWABLE COST FOR ANY DRUG, PRODUCT, OR DEVICE IT PLACES ON A MAXIMUM**  
27 **ALLOWABLE COST LIST IN AN AMOUNT THAT IS BELOW THE AMOUNT ESTABLISHED**  
28 **IN THE SOURCE USED BY THE PHARMACY BENEFITS MANAGER TO SET THE MAXIMUM**  
29 **ALLOWABLE COST FOR THE DRUG, PRODUCT, OR DEVICE.**

30 **[(f)] (I)** Each contract between a pharmacy benefits manager and a contracted  
31 pharmacy must include a process to appeal, investigate, and resolve disputes regarding  
32 maximum allowable cost pricing that includes:



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

3 (2) a requirement that [an appeal be investigated and resolved], within  
4 [21] 7 days after the date the appeal is filed, **THE PHARMACY BENEFITS MANAGER**  
5 **INVESTIGATE AND RESOLVE THE APPEAL AND REPORT TO THE CONTRACTED**  
6 **PHARMACY ON THE PHARMACY BENEFITS MANAGER'S DETERMINATION ON THE**  
7 **APPEAL;**

8 (3) **A REQUIREMENT THAT A PHARMACY BENEFITS MANAGER MAKE**  
9 **AVAILABLE ON ITS WEBSITE INFORMATION ABOUT THE APPEAL PROCESS,**  
10 **INCLUDING:**

11 (I) a **DIRECT** telephone number at which the contracted pharmacy  
12 may contact the pharmacy benefits manager to speak to an individual **SPECIFICALLY**  
13 responsible for processing appeals; **AND**

14 (II) **A NOTICE INDICATING THAT THE INDIVIDUAL**  
15 **SPECIFICALLY RESPONSIBLE FOR PROCESSING APPEALS SHALL RETURN CALLS**  
16 **MADE BY A CONTRACTED PHARMACY TO THE INDIVIDUAL WITHIN 3 DAYS OR LESS**  
17 **OF RECEIVING THE CALL;**

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

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

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

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

26 (i) make the change in the maximum allowable cost no later than 1  
27 business day after the date of determination on the appeal; and

28 (ii) permit the appealing contracting pharmacy to reverse and rebill  
29 the claim, and any subsequent similar claims.

30 (J) (1) **WITHIN 30 CALENDAR DAYS AFTER A PHARMACY BENEFITS**  
31 **MANAGER DENIES AN APPEAL BY A CONTRACTED PHARMACY UNDER SUBSECTION**  
32 **(I) OF THIS SECTION, THE CONTRACTED PHARMACY MAY FILE A COMPLAINT WITH**  
33 **THE COMMISSIONER FOR REVIEW OF THE DECISION BY THE PHARMACY BENEFITS**  
34 **MANAGER.**

1           **(2) A CONTRACTED PHARMACY SHALL EXHAUST THE APPEAL**  
2 **PROCESS ESTABLISHED BY THE PHARMACY BENEFITS MANAGER UNDER**  
3 **SUBSECTION (I) OF THIS SECTION BEFORE FILING A COMPLAINT WITH THE**  
4 **COMMISSIONER UNDER THIS SUBSECTION.**

5           **(3) THE COMMISSIONER SHALL HOLD A HEARING ON THE**  
6 **COMPLAINT AND ISSUE AN ORDER IN ACCORDANCE WITH THE HEARING AND REVIEW**  
7 **PROCEDURES ESTABLISHED UNDER §§ 2-210 THROUGH 2-214 OF THIS ARTICLE.**

8           **(4) AN APPEAL OF AN ORDER OF THE COMMISSIONER UNDER THIS**  
9 **SUBSECTION MAY BE TAKEN IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE.**

10           **(5) A PHARMACY BENEFITS MANAGER MAY NOT RETALIATE AGAINST**  
11 **A CONTRACTED PHARMACY FOR FILING A COMPLAINT WITH THE COMMISSIONER**  
12 **UNDER THIS SUBSECTION.**

13           **(K) A PHARMACY BENEFITS MANAGER MAY NOT CHARGE A CONTRACTED**  
14 **PHARMACY A FEE RELATED TO AN ADJUDICATION OF A CLAIM UNDER THIS SECTION.**

15           **(L) (1) A PHARMACY BENEFITS MANAGER THAT VIOLATES THIS SECTION**  
16 **IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$1,000 FOR EACH VIOLATION.**

17           **(2) EACH DAY THAT A VIOLATION CONTINUES SHALL BE A SEPARATE**  
18 **VIOLATION.**

19 15-1642.

20           (c) In addition to any other enforcement action taken by the Commissioner under  
21 this section **AND SUBJECT TO § 15-1628.1(L) OF THIS SUBTITLE**, the Commissioner may  
22 impose a civil penalty not exceeding \$10,000 for each violation of this subtitle.

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
24 contracts between a pharmacy benefits manager and a pharmacy entered into or renewed  
25 on or after January 1, 2019.

26           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 January 1, 2019.