

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 847 (Delegates R. Lewis and Cullison)  
Health and Government Operations

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Prescription Drug Monitoring Program - Disclosure of Data - Managed Care  
Organizations

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This bill expands the entities to which the Prescription Drug Monitoring Program (PDMP) must disclose prescription monitoring data to include the medical director (or designee) of a Medicaid managed care organization (MCO) for the purpose of complying with the (1) Corrective Managed Care Program of the Maryland Medicaid Pharmacy Program or (2) standards developed by the Maryland Medicaid Opioid Drug Utilization Review Workgroup.

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Fiscal Summary

**State Effect:** None. The change is procedural in nature and does not directly affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law/ Background:**

*Prescription Drug Monitoring Program*

Chapter 166 of 2011 established PDMP to assist with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II

through V controlled dangerous substances (CDS). As of July 1, 2017, all CDS dispensers are required to register with PDMP. As of July 1, 2018, prescribers are required to (1) request at least the prior four months of prescription monitoring data for a patient before initiating a course of treatment that includes prescribing or dispensing an opioid or a benzodiazepine; (2) request prescription monitoring data for the patient at least every 90 days until the course of treatment has ended; and (3) assess prescription monitoring data before deciding whether to prescribe or dispense – or continue prescribing or dispensing – an opioid or a benzodiazepine. A prescriber is not required to request prescription monitoring data if the opioid or benzodiazepine is prescribed or dispensed to specified individuals and in other specified circumstances.

Prescription monitoring data is not a public record and may not be disclosed to any person except as specifically authorized under law. However, the program must disclose data, in accordance with regulations adopted by the Secretary of Health, to:

- a prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;
- a dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;
- a federal, State, or local law enforcement agency, on issuance of a subpoena, for an existing *bona fide* individual investigation;
- a licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for purposes of a *bona fide* individual investigation;
- a rehabilitation program under a health occupations board on issuance of an administrative subpoena;
- a patient with respect to prescription monitoring data about the patient;
- the authorized administrator of another state's prescription drug monitoring program;
- specific units of MDH on approval of the Secretary of Health for the purpose of furthering an existing *bona fide* individual investigation;
- the Technical Advisory Committee;
- the State Child Fatality Review Team or a local child fatality review team, on request from the chair of the State or local team;
- a local drug overdose fatality review team, on request from the chair of the local team;
- the Maternal Mortality Review Program, on request from the program; or
- a medical review committee, on request from the committee.

The program *may* disclose prescription drug monitoring data for research, analysis, public reporting, and education but only after redacting all information that could identify a patient, prescriber, dispenser, or other individual, and only in accordance with regulations.

#### *Medicaid Managed Care Organizations*

An MCO is a certified health maintenance organization authorized to receive Medicaid capitation payments. “MCO” also includes a corporation that is a managed care system authorized to receive Medicaid capitation payments, enrolls only program recipients or individuals or families served under the Maryland’s Children’s Health Program, and is subject to specified requirements. Most Medicaid recipients are required to enroll in an MCO through HealthChoice, the statewide mandatory Medicaid managed care program. Currently, there are nine MCOs in Maryland.

#### *Corrective Managed Care Program*

The Corrective Managed Care Program was established by regulation (COMAR 10.09.75) in an ongoing effort to monitor and promote appropriate use of prescription CDS by Medicaid enrollees. Each MCO must have a corrective managed care plan that, at a minimum, provides for (1) the identification of an enrollee that has abused MCO pharmacy benefits and (2) the enrollment of an enrollee determined to have abused pharmacy benefits in the MCO’s corrective managed care plan.

#### *Maryland Medicaid Opioid Drug Utilization Review Workgroup*

With more than 20% of Marylanders enrolled in Medicaid, the program is moving to implement policy changes recommended by the U.S. Centers for Disease Control and Prevention for both Medicaid MCOs and fee-for-service enrollees, including using data to monitor and evaluate activities. Representatives from the Maryland Department of Health and the HealthChoice MCOs jointly developed the Opioid Drug Utilization Review Workgroup to develop the new policies. Maryland Medicaid recommends to (1) consider nonopioids as first-line treatment for chronic pain; (2) require prior authorization for long-acting opioids, fentanyl products, methadone for pain, and other specified prescriptions; (3) screen patients for substance use disorder; (4) refer patients identified as having substance use disorder to substance use treatment; (5) prescribe Naloxone to patients who meet certain risk factors; and (6) use PDMP for all CDS prescriptions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 498 (Senator Hayes) - Finance.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

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