

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 759

(Delegate Morgan, *et al.*)

Health and Government Operations

Finance

Pharmacy Benefits Managers - Pharmacy Choice

This bill prohibits a pharmacy benefits manager (PBM) from requiring that a beneficiary use a specific pharmacy or entity to fill a prescription if (1) the PBM or a corporate affiliate of the PBM has an ownership interest in the pharmacy or entity or (2) the pharmacy or entity has an ownership interest in the PBM or a corporate affiliate of the PBM. A PBM may require a beneficiary to use a specific pharmacy or entity for a specialty drug. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: No likely effect in FY 2019; instead, special fund revenues for the Maryland Insurance Administration (MIA) increase minimally in FY 2020 only from the \$125 rate and form filing fee. Review of filings can likely be handled with existing budgeted resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program at this time. Indeterminate impact on Maryland Medicaid, as discussed below.

Local Effect: To the extent the ability to control the cost of prescription drug plans is curtailed under the bill, local governments may experience cost increases in prescription drug plans. Revenues are not affected.

Small Business Effect: Minimal; however, small businesses may experience cost increases in prescription drug plans.

Analysis

Current Law/Background: A PBM is a business that administers and manages prescription drug benefit plans for purchasers. A PBM must register with MIA 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 is 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. All PBMs own their own mail order and specialty pharmacies, which in some cases may raise conflict of interest issues. Some employers utilize narrow pharmacy networks as a cost-containment strategy for prescription plans.

State Expenditures: The Department of Budget and Management (DBM) advises that the prescription drug plan under the State Employee and Retiree Health and Welfare Benefits Program prohibits a PBM from requiring a beneficiary to use a specific pharmacy; thus, there is no operational or fiscal impact on the program at this time. However, DBM notes that the bill limits the ability of DBM to change its pharmacy plan to require the use of certain pharmacies in the future.

Maryland Medicaid advises that all nine Medicaid managed care organizations (MCOs) utilize PBMs. Five of the MCOs utilize specific specialty pharmacy networks for specialty drugs that a PBM has an ownership interest in. Thus, the bill prohibits those PBMs to continue in this practice, which may result in increased costs for MCOs and changes to their pharmacy networks that may impact their participants. However, Medicaid cannot reliably estimate the operational or fiscal impact on program expenditures at this time.

Additional Information

Prior Introductions: HB 1402 of 2018, a similar bill, was withdrawn.

Cross File: None.

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

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