

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 885 (Delegates Sample-Hughes and Kipke)
Health and Government Operations

Pharmacy Benefits Managers - Duties and Obligations

This bill establishes that a pharmacy benefits manager (PBM) has a duty and an obligation to the beneficiary and the purchaser to perform all pharmacy benefits management services (1) with care, skill, prudence, diligence, and professionalism and (2) primarily in the best interests of the beneficiary and the purchaser.

Fiscal Summary

State Effect: To the extent the bill results in additional complaints about PBMs, special fund expenditures for the Maryland Insurance Administration (MIA) may increase beginning in FY 2021. To the extent the Insurance Commissioner imposes a civil penalty on a PBM for failure to act in accordance with the bill, general fund revenues may increase.

Local Effect: This bill does not have a material impact on local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law:

Pharmacy Benefits Managers

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.

Violations of Title 15, Subtitle 16 of the Insurance Article

If the Commissioner determines that a PBM has violated any provision of the subtitle (or any regulation adopted under the subtitle, which is where the new duty is placed in the bill), the Commissioner may order a PBM to (1) cease and desist; (2) take specific affirmative corrective action; (3) make restitution of money, property, or assets; or (4) pay a fine in an amount determined by the Commissioner. In addition to any other enforcement action taken by the Commissioner, the Commissioner may impose a civil penalty of up to \$10,000 for each violation of the subtitle.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

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mr/ljm

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