

HOUSE BILL 382

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EMERGENCY BILL

3lr0477
CF SB 895

By: ~~Delegate Kipke~~ Delegates Kipke, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White, and Woods

Introduced and read first time: January 26, 2023

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 ~~Pharmacy Benefits Administration—Maryland Medical Assistance Program and~~
3 ~~Pharmacy Benefits Managers~~
4 Maryland Department of Health and Prescription Drug Affordability Board –
5 Managed Care Organizations and Prescription Drug Claims – Study

6 FOR the purpose of ~~altering the reimbursement levels for drug products that the Maryland~~
7 ~~Medical Assistance Program is required to establish and that pharmacy benefits~~
8 ~~managers that contract with a pharmacy on behalf of a managed care organization~~
9 ~~are required to reimburse the pharmacy; altering the definition of “purchaser” for~~
10 ~~purposes of certain provisions of law regulating pharmacy benefits managers to~~
11 ~~include certain insurers, nonprofit health services plans, and health maintenance~~
12 ~~organizations~~ requiring the Maryland Department of Health and the Prescription
13 Drug Affordability Board jointly to study certain information regarding the payment
14 of prescription drug claims under the Maryland Medical Assistance Program during
15 certain calendar years and how to address certain inconsistencies; and generally
16 relating to ~~pharmacy benefits administration~~ managed care organizations and the
17 payment of prescription drug claims.

18 ~~BY repealing and reenacting, with amendments,~~
19 ~~Article—Health—General~~
20 ~~Section 15–118(b)~~
21 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~(2019 Replacement Volume and 2022 Supplement)~~

~~BY adding to~~

~~Article — Health — General~~

~~Section 15 — 118(f)~~

~~Annotated Code of Maryland~~

~~(2019 Replacement Volume and 2022 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Insurance~~

~~Section 15 — 1601(e)~~

~~Annotated Code of Maryland~~

~~(2017 Replacement Volume and 2022 Supplement)~~

~~BY adding to~~

~~Article — Insurance~~

~~Section 15 — 1632~~

~~Annotated Code of Maryland~~

~~(2017 Replacement Volume and 2022 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

~~Article — Health — General~~

~~15 — 118.~~

~~(b) (1) [Except] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND EXCEPT as provided under paragraph [(2)] (3) of this subsection, the Program shall establish [maximum] reimbursement levels for the drug products for which there is a generic equivalent authorized under § 12 — 504 of the Health Occupations Article[, based on the cost of the generic product].~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, MINIMUM REIMBURSEMENT LEVELS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE AT LEAST EQUAL TO THE NATIONAL AVERAGE DRUG ACQUISITION COST OF THE GENERIC PRODUCT PLUS THE FEE FOR SERVICE PROFESSIONAL DISPENSING FEE DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH THE MOST RECENT IN STATE COST OF DISPENSING SURVEY.~~

~~[(2)] (3) [If] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, IF a prescriber directs a specific brand name drug, the reimbursement level shall be based on the [cost] NATIONAL AVERAGE DRUG ACQUISITION COST of the brand name product PLUS THE FEE FOR SERVICE PROFESSIONAL DISPENSING FEE~~

~~1 DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH THE MOST RECENT~~
~~2 IN STATE COST OF DISPENSING SURVEY.~~

~~3 (4) PARAGRAPHS (2) AND (3) OF THIS SUBSECTION DO NOT APPLY TO:~~

~~4 (I) A PHARMACY OWNED BY, OR UNDER THE SAME CORPORATE~~
~~5 AFFILIATION, AS A PHARMACY BENEFITS MANAGER; OR~~

~~6 (II) A MAIL ORDER PHARMACY.~~

~~7 (F) THE PROVISIONS OF § 15 1632 OF THE INSURANCE ARTICLE APPLY TO~~
~~8 A MANAGED CARE ORGANIZATION THAT USES A PHARMACY BENEFITS MANAGER TO~~
~~9 MANAGE PRESCRIPTION DRUG COVERAGE BENEFITS ON BEHALF OF THE MANAGED~~
~~10 CARE ORGANIZATION.~~

~~11 Article Insurance~~

~~12 15-1601.~~

~~13 (s) (1) "Purchaser" means a person that offers a plan or program in the State,~~
~~14 including the State Employee and Retiree Health and Welfare Benefits Program, AN~~
~~15 INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE~~
~~16 ORGANIZATION, that:~~

~~17 [(1)] (I) provides prescription drug coverage or benefits in the State; and~~

~~18 [(2)] (II) enters into an agreement with a pharmacy benefits manager for~~
~~19 the provision of pharmacy benefits management services.~~

~~20 (2) "PURCHASER" DOES NOT INCLUDE A NONPROFIT HEALTH~~
~~21 MAINTENANCE ORGANIZATION THAT:~~

~~22 (I) OPERATES AS A GROUP MODEL;~~

~~23 (II) PROVIDES SERVICES SOLELY TO A MEMBER OR PATIENT OF~~
~~24 THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND~~

~~25 (III) FURNISHES SERVICES THROUGH THE INTERNAL PHARMACY~~
~~26 OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.~~

~~27 15-1632.~~

~~28 A PHARMACY BENEFITS MANAGER THAT CONTRACTS WITH A PHARMACY ON~~
~~29 BEHALF OF A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15 101 OF THE~~
~~30 HEALTH GENERAL ARTICLE, SHALL REIMBURSE THE PHARMACY AN AMOUNT~~

~~1 THAT IS AT LEAST EQUAL TO THE NATIONAL AVERAGE DRUG ACQUISITION COST~~
~~2 PLUS THE FEE FOR SERVICE PROFESSIONAL DISPENSING FEE DETERMINED BY THE~~
~~3 MARYLAND DEPARTMENT OF HEALTH FOR THE MARYLAND MEDICAL ASSISTANCE~~
~~4 PROGRAM IN ACCORDANCE WITH THE MOST RECENT IN STATE~~
~~5 COST OF DISPENSING SURVEY.~~

6 (a) The Maryland Department of Health and the Prescription Drug Affordability
7 Board jointly shall study:

8 (1) (i) the total amount the managed care organizations in the State
9 paid pharmacies for prescription drug claims in calendar years 2021 and 2022; and

10 (ii) what the total amount paid to pharmacies would have been, in
11 calendar years 2021 and 2022, if the prescription drug claims had been reimbursed at the
12 Maryland Medical Assistance Program fee-for-service rates; and

13 (2) how to best address the inconsistency in the amounts studied under
14 item (1) of this subsection by:

15 (i) considering the total cost to the State; and

16 (ii) recommending a methodology for determining the most accurate
17 ingredient cost of a drug and an appropriate dispensing fee.

18 (b) On or before October 31, 2023, the Maryland Department of Health and the
19 Prescription Drug Affordability Board jointly shall report its findings to the Maryland
20 Medicaid Administration and, in accordance with § 2-1257 of the State Government
21 Article, the Senate Budget and Taxation Committee, the Senate Finance Committee, the
22 House Appropriations Committee, and the House Health and Government Operations
23 Committee.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
25 measure, is necessary for the immediate preservation of the public health or safety, has
26 been passed by a ye and nay vote supported by three-fifths of all the members elected to
27 each of the two Houses of the General Assembly, and shall take effect from the date it is
28 enacted.