

SENATE BILL 398

J5, J4

3lr1811
CF 3lr1710

By: **Senators Lam and Feldman**

Introduced and read first time: February 1, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Reimbursement and Use of Specific Pharmacies and**
3 **Dispensaries – Prohibitions**

4 FOR the purpose of specifying that certain insurers, nonprofit health service plans, and
5 health maintenance organizations are not precluded from recommending, rather
6 than requiring, that a covered specialty drug be obtained through a certain
7 pharmacy or dispensary; prohibiting certain insurers, nonprofit health service plans,
8 and health maintenance organizations from taking certain actions related to a
9 subscriber, member, or beneficiary choosing a certain pharmacy or dispensary to
10 obtain a covered specialty drug; repealing the authority of certain pharmacy benefits
11 managers to require a beneficiary to use a specific pharmacy or entity for a specialty
12 drug; altering the application of the prohibition on certain pharmacy benefits
13 managers reimbursing a pharmacy or pharmacist in an amount less than the
14 amount that the pharmacy benefits manager reimburses itself or an affiliate for
15 providing the same product or service; and generally relating to reimbursement and
16 use of specific pharmacies and dispensaries under health insurance.

17 BY repealing and reenacting, with amendments,
18 Article – Insurance
19 Section 15–847(d), 15–1611.1, and 15–1612
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2022 Supplement)

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

24 **Article – Insurance**

25 15–847.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) (1) Subject to § 15–805 of this subtitle **AND PARAGRAPH (2) OF THIS**
2 **SUBSECTION** and notwithstanding § 15–806 of this subtitle, nothing in this article or
3 regulations adopted under this article precludes an entity subject to this section from
4 **[requiring] RECOMMENDING THAT** a covered specialty drug **[to]** be obtained through:

5 [(1)] (I) a designated pharmacy **OR DISPENSARY** or other source
6 authorized under the Health Occupations Article to dispense or administer prescription
7 drugs; or

8 [(2)] (II) a pharmacy **OR DISPENSARY** participating in the entity's
9 provider network, if the entity determines that the pharmacy **OR DISPENSARY**:

10 [(i)] 1. meets the entity's performance standards; and

11 [(ii)] 2. accepts the entity's network reimbursement rates.

12 (2) **AN ENTITY SUBJECT TO THIS SECTION MAY NOT PROHIBIT A**
13 **SUBSCRIBER, MEMBER, OR BENEFICIARY FROM CHOOSING A PHARMACY OR**
14 **DISPENSARY TO OBTAIN A COVERED SPECIALTY DRUG IF THE PHARMACY OR**
15 **DISPENSARY MEETS THE REQUIREMENTS FOR A PHARMACY OR DISPENSARY THAT**
16 **MAY BE RECOMMENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

17 (3) **IF A SUBSCRIBER, MEMBER, OR BENEFICIARY CHOOSES TO**
18 **OBTAIN A COVERED SPECIALTY DRUG FROM A PHARMACY OR DISPENSARY THAT WAS**
19 **NOT RECOMMENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN ENTITY**
20 **SUBJECT TO THIS SECTION MAY NOT:**

21 (I) **PROHIBIT OR LIMIT THE PHARMACY OR DISPENSARY FROM**
22 **PARTICIPATING IN A PLAN, POLICY, OR CONTRACT ACCORDING TO THE TERMS**
23 **OFFERED BY THE ENTITY; OR**

24 (II) **DENY THE PHARMACY OR DISPENSARY THE RIGHT TO**
25 **PARTICIPATE AS A CONTRACT PROVIDER UNDER THE PLAN, POLICY, OR CONTRACT**
26 **IF THE PHARMACY OR DISPENSARY AGREES TO:**

27 1. **PROVIDE PHARMACY SERVICES, INCLUDING**
28 **SPECIALTY DRUGS, THAT MEET THE TERMS AND REQUIREMENTS OF THE ENTITY**
29 **UNDER THE PLAN, POLICY, OR CONTRACT; AND**

30 2. **ANY OTHER TERMS AND REQUIREMENTS OF THE**
31 **ENTITY.**

1 (a) This section applies only to a pharmacy benefits manager that provides
2 pharmacy benefits management services on behalf of a carrier.

3 (b) [Except as provided in subsection (c) of this section, a] A pharmacy benefits
4 manager may not require that a beneficiary use a specific pharmacy or entity to fill a
5 prescription if:

6 (1) the pharmacy benefits manager or a corporate affiliate of the pharmacy
7 benefits manager has an ownership interest in the pharmacy or entity; or

8 (2) the pharmacy or entity has an ownership interest in the pharmacy
9 benefits manager or a corporate affiliate of the pharmacy benefits manager.

10 [(c) A pharmacy benefits manager may require a beneficiary to use a specific
11 pharmacy or entity for a specialty drug as defined in § 15–847 of this title.]

12 15–1612.

13 (a) This section applies only to a pharmacy benefits manager that provides
14 pharmacy benefits management services on behalf of a carrier.

15 [(b) This section does not apply to reimbursement:

16 (1) for specialty drugs;

17 (2) for mail order drugs; or

18 (3) to a chain pharmacy with more than 15 stores or a pharmacist who is
19 an employee of the chain pharmacy.]

20 [(c)] (B) A pharmacy benefits manager may not reimburse a pharmacy or
21 pharmacist for a pharmaceutical product or pharmacist service in an amount less than the
22 amount that the pharmacy benefits manager reimburses itself or an affiliate for providing
23 the same product or service.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2023.