

SENATE BILL 895

J5

EMERGENCY BILL

3lr3017
CF HB 382

By: **Senators Ready and Klausmeier**

Introduced and read first time: February 15, 2023

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Administration – Maryland Medical Assistance Program and**
3 **Pharmacy Benefits Managers**

4 FOR the purpose of altering the reimbursement levels for drug products that the Maryland
5 Medical Assistance Program is required to establish and that pharmacy benefits
6 managers that contract with a pharmacy on behalf of a managed care organization
7 are required to reimburse the pharmacy; altering the definition of “purchaser” for
8 purposes of certain provisions of law regulating pharmacy benefits managers to
9 include certain insurers, nonprofit health services plans, and health maintenance
10 organizations; and generally relating to pharmacy benefits administration.

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 15–118(b)
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2022 Supplement)

16 BY adding to
17 Article – Health – General
18 Section 15–118(f)
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Insurance
23 Section 15–1601(s)
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2022 Supplement)

26 BY adding to
27 Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 15–1632
 2 Annotated Code of Maryland
 3 (2017 Replacement Volume and 2022 Supplement)

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

6 **Article – Health – General**

7 15–118.

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

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

20 **[(2)] (3) [If] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
 21 **SUBSECTION, IF** a prescriber directs a specific brand name drug, the reimbursement level
 22 shall be based on the **[cost] NATIONAL AVERAGE DRUG ACQUISITION COST** of the
 23 brand name product **PLUS THE FEE-FOR-SERVICE PROFESSIONAL DISPENSING FEE**
 24 **DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH THE MOST RECENT**
 25 **IN-STATE COST-OF-DISPENSING SURVEY.**

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

27 **(I) A PHARMACY OWNED BY, OR UNDER THE SAME CORPORATE**
 28 **AFFILIATION, AS A PHARMACY BENEFITS MANAGER; OR**

29 **(II) A MAIL ORDER PHARMACY.**

30 **(F) THE PROVISIONS OF § 15–1632 OF THE INSURANCE ARTICLE APPLY TO**
 31 **A MANAGED CARE ORGANIZATION THAT USES A PHARMACY BENEFITS MANAGER TO**
 32 **MANAGE PRESCRIPTION DRUG COVERAGE BENEFITS ON BEHALF OF THE MANAGED**
 33 **CARE ORGANIZATION.**

34 **Article – Insurance**

1 15-1601.

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

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

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

9 (2) "PURCHASER" DOES NOT INCLUDE A NONPROFIT HEALTH
10 MAINTENANCE ORGANIZATION THAT:

11 (I) OPERATES AS A GROUP MODEL;

12 (II) PROVIDES SERVICES SOLELY TO A MEMBER OR PATIENT OF
13 THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

14 (III) FURNISHES SERVICES THROUGH THE INTERNAL PHARMACY
15 OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

16 15-1632.

17 A PHARMACY BENEFITS MANAGER THAT CONTRACTS WITH A PHARMACY ON
18 BEHALF OF A MANAGED CARE ORGANIZATION, AS DEFINED IN § 15-101 OF THE
19 HEALTH - GENERAL ARTICLE, SHALL REIMBURSE THE PHARMACY AN AMOUNT
20 THAT IS AT LEAST EQUAL TO THE NATIONAL AVERAGE DRUG ACQUISITION COST
21 PLUS THE FEE-FOR-SERVICE PROFESSIONAL DISPENSING FEE DETERMINED BY THE
22 MARYLAND DEPARTMENT OF HEALTH FOR THE MARYLAND MEDICAL ASSISTANCE
23 PROGRAM IN ACCORDANCE WITH THE MOST RECENT IN-STATE
24 COST-OF-DISPENSING SURVEY.

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