

# HOUSE BILL 670

P6, P4  
HB 1230/20 – APP

4lr2127

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By: **Delegates Grammer, Arikan, Chisholm, Fisher, Kipke, Munoz, Nawrocki, and Szeliga**

Introduced and read first time: January 25, 2024

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Prescription Drug Benefits – Retirees**

3 FOR the purpose of authorizing certain retirees who began State service before a certain  
4 date to be eligible for prescription drug benefits in the State Employee and Retiree  
5 Health and Welfare Benefits Program; specifying that prescription drug benefits  
6 shall be discontinued for certain Medicare–eligible retirees who began State service  
7 on or after a certain date and their Medicare–eligible spouses and dependent  
8 children; repealing the Maryland State Retiree Prescription Drug Coverage  
9 Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance  
10 Program, and the Maryland State Retiree Life–Sustaining Prescription Drug  
11 Assistance Program; repealing a requirement that the Secretary of Budget and  
12 Management provide a certain notice; repealing a requirement for the Department  
13 of Budget and Management to submit certain reports and ensure Medicare–eligible  
14 retirees have access to certain services; and generally relating to State prescription  
15 drug benefits for retirees from State employment.

16 BY repealing and reenacting, with amendments,  
17 Article – State Personnel and Pensions  
18 Section 2–509.1  
19 Annotated Code of Maryland  
20 (2015 Replacement Volume and 2023 Supplement)

21 BY repealing  
22 Chapter 767 of the Acts of the General Assembly of 2019  
23 Section 2, 4, and 5

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

26 **Article – State Personnel and Pensions**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2–509.1.

2 (a) (1) Except as provided in subsection (b) of this section, the State shall  
3 continue to include a prescription drug benefit plan in the health insurance benefit options  
4 established under the Program and available to retirees under §§ 2–508 and 2–509 of this  
5 subtitle notwithstanding the enactment of the federal Medicare Prescription Drug,  
6 Improvement, and Modernization Act of 2003 or any other federal law permitting states to  
7 discontinue prescription drug benefit plans to retirees of a state.

8 (2) Except as provided in subsection (b) of this section:

9 (i) a retiree may elect to cover the retiree’s spouse or dependent  
10 child under the State prescription drug benefit plan under §§ 2–508 and 2–509 of this  
11 subtitle; and

12 (ii) if a surviving spouse or surviving dependent child of a retiree is  
13 eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of this  
14 subtitle, the surviving spouse or surviving dependent child may elect to enroll in the State  
15 prescription drug benefit plan.

16 (b) (1) **THIS SUBSECTION APPLIES ONLY TO A RETIREE WHO BEGAN**  
17 **STATE SERVICE ON OR AFTER JULY 1, 2011.**

18 (2) Except as provided in [subsection (c) of this section] **PARAGRAPH (3)**  
19 **OF THIS SUBSECTION**, on January 1, 2019, the State shall discontinue prescription drug  
20 benefits for:

21 [(1)] (I) a Medicare–eligible retiree;

22 [(2)] (II) the Medicare–eligible spouse or surviving spouse of a retiree; and

23 [(3)] (III) a Medicare–eligible dependent child or surviving dependent child  
24 of a retiree.

25 [(c) (1)] (3) (I) If a retiree is eligible to participate in the prescription  
26 drug benefit plan under Medicare, but the retiree’s spouse or dependent child is not eligible  
27 to participate in a Medicare prescription drug benefit plan, the retiree may elect to cover  
28 the retiree’s spouse or dependent child under the State prescription drug benefit plan.

29 [(2)] (II) If the surviving spouse or surviving dependent child of a retiree  
30 is eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of  
31 this subtitle, but is not eligible to participate in the prescription drug benefit plan under  
32 Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State  
33 prescription drug benefit plan.

1           [(d) (1) This subsection applies only to a retiree, a retiree's spouse or surviving  
2 spouse, and a retiree's dependent child or surviving dependent child:

3                           (i) who is enrolled in a prescription drug benefit plan under  
4 Medicare;

5                           (ii) if the retiree is retired on or before December 31, 2019; and

6                           (iii) if the retiree is eligible under § 2-508 or § 2-509 of this subtitle  
7 to enroll and participate in the health insurance benefit options established under the  
8 Program.

9                   (2) (i) Subject to subparagraph (ii) of this paragraph, on or before  
10 January 1, 2020, the Department shall establish a Maryland State Retiree Prescription  
11 Drug Coverage Program that reimburses a participant for out-of-pocket costs that exceed  
12 the limits established for non-Medicare-eligible retirees in § 2-508(d)(2)(iii) of this  
13 subtitle.

14                           (ii) The Department may establish an out-of-pocket limit higher  
15 than the limits established in subparagraph (i) of this paragraph for a retiree who qualifies  
16 for a partial State subsidy.

17                   (3) The Maryland State Retiree Prescription Drug Coverage Program  
18 established under paragraph (2) of this subsection may include:

19                           (i) a health reimbursement account established in accordance with  
20 § 105(h) of the Internal Revenue Code; or

21                           (ii) another program that provides assistance with prescription drug  
22 costs.

23                   (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's  
24 dependent child or surviving dependent child may enroll in the Maryland State Retiree  
25 Prescription Drug Coverage Program during the open enrollment period or any special  
26 enrollment period for retiree health insurance benefit options.

27           (e) (1) This subsection applies only to a retiree, a retiree's spouse or surviving  
28 spouse, and a retiree's dependent child or surviving dependent child:

29                           (i) who is enrolled in a prescription drug benefit plan under  
30 Medicare; and

31                           (ii) if the retiree:

32                                   1. began State service on or before June 30, 2011;

33                                   2. retired on or after January 1, 2020; and

1                               3.       is eligible under § 2–508 or § 2–509 of this subtitle to enroll  
2 and participate in the health insurance benefit options established under the Program.

3                               (2)   (i)       Subject to subparagraph (ii) of this paragraph, on or before  
4 January 1, 2020, the Department shall establish a Maryland State Retiree Catastrophic  
5 Prescription Drug Assistance Program that reimburses a participant for out-of-pocket  
6 costs after the participant has entered catastrophic coverage under a prescription drug  
7 benefit plan under Medicare.

8                               (ii)   The Department may establish a maximum reimbursement  
9 amount for a retiree who qualifies for a partial State subsidy.

10                              (3)    The Maryland State Retiree Catastrophic Prescription Drug Assistance  
11 Program under paragraph (2) of this subsection may provide reimbursements through:

12                              (i)    a health reimbursement account established in accordance with  
13 § 105(h) of the Internal Revenue Code; or

14                              (ii)   another program that provides assistance with prescription drug  
15 costs.

16                              (4)   A retiree, a retiree’s spouse or surviving spouse, and a retiree’s  
17 dependent child or surviving dependent child may enroll in the Maryland State Retiree  
18 Catastrophic Prescription Drug Assistance Program during the open enrollment period or  
19 any special enrollment period for retiree health insurance benefit options.

20                              (f)   (1)   This subsection applies only to a retiree, a retiree’s spouse or surviving  
21 spouse, and a retiree’s dependent child or surviving dependent child:

22                              (i)    who is enrolled in:

23                                              1.       the Maryland State Retiree Prescription Drug Coverage  
24 Program established under subsection (d) of this section; or

25                                              2.       the Maryland State Retiree Catastrophic Prescription  
26 Drug Assistance Program established under subsection (e) of this section; and

27                              (ii)   if the retiree is eligible under § 2–508 or § 2–509 of this subtitle  
28 to enroll and participate in the health insurance benefit options established under the  
29 Program.

30                              (2)   (i)       On or before January 1, 2020, the Department shall establish a  
31 Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program that  
32 reimburses a participant for out-of-pocket costs for a life–sustaining prescription drug that  
33 is:

1                   1.     covered by the prescription drug benefit plan in the health  
2 insurance benefit options established under the Program; and

3                   2.     not covered by the prescription drug benefit plan under  
4 Medicare in which the participant is enrolled.

5                   (ii)    The Department shall develop a list of the prescription drugs  
6 that qualify for reimbursement under subparagraph (i) of this paragraph.

7                   (iii)   The Department may establish maximum reimbursement  
8 amounts for a retiree who qualifies for a partial State subsidy.

9                   (3)    The Maryland State Retiree Life–Sustaining Prescription Drug  
10 Assistance Program established under paragraph (2) of this subsection may provide  
11 reimbursements through:

12                   (i)     a health reimbursement account established in accordance with  
13 § 105(h) of the Internal Revenue Code; or

14                   (ii)    another program that provides assistance with prescription drug  
15 costs.

16                   (4)    A retiree, a retiree’s spouse or surviving spouse, and a retiree’s  
17 dependent child or surviving dependent child shall be automatically enrolled in the  
18 Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program on  
19 enrollment in:

20                   (i)     the Maryland State Retiree Prescription Drug Coverage Program  
21 established under subsection (d) of this section; or

22                   (ii)    the Maryland State Retiree Catastrophic Prescription Drug  
23 Assistance Program established under subsection (e) of this section.

24                   (g)    (1)    Subject to paragraph (2) of this subsection, not later than July 1 of each  
25 year, the Secretary shall provide written certified notice of the change in the State  
26 prescription drug benefit plan under this section to the individuals who will become eligible  
27 in the next calendar year to enroll in the:

28                   (i)     Maryland State Retiree Prescription Drug Coverage Program;

29                   (ii)    Maryland State Retiree Catastrophic Prescription Drug  
30 Assistance Program; or

31                   (iii)   Maryland State Retiree Life–Sustaining Prescription Drug  
32 Assistance Program.

33                   (2)    The notice shall include information regarding:

1 (i) coverage options available in the Medicare prescription drug  
2 benefit plan, including options that are similar to the prescription drug benefit plan in the  
3 health insurance benefit options established under the Program;

4 (ii) the potential for significant penalties if an individual does not  
5 promptly choose a Medicare prescription drug benefit plan immediately on termination of  
6 the individual's participation in the State prescription drug benefit plan;

7 (iii) the programs available under subsections (d), (e), and (f) of this  
8 section; and

9 (iv) any additional resources made available by the Department in  
10 accordance with this section.

11 (h) (1) The Department shall ensure Medicare-eligible retirees have access to  
12 one-on-one counseling services to assist retirees in selecting a Medicare prescription drug  
13 benefit plan.

14 (2) The Department shall develop a plan to communicate to  
15 Medicare-eligible retirees the availability of:

16 (i) the programs under subsections (d), (e), and (f) of this section;  
17 and

18 (ii) services and information regarding prescription drug benefit  
19 plans under Medicare.

20 (3) On or before December 31, 2019, the Department shall submit a report  
21 to the Senate Budget and Taxation Committee and the House Appropriations Committee,  
22 in accordance with § 2-1257 of the State Government Article, on the plan developed under  
23 paragraph (2) of this subsection.

24 (4) The report required under paragraph (3) of this subsection shall  
25 include:

- 26 (i) options for providing one-on-one counseling, including:
- 27 1. in-person, over-the-phone, or web-based counseling;
  - 28 2. the times at which one-on-one counseling will be  
29 available;
  - 30 3. a plan to ensure equitable geographic access to  
31 one-on-one counseling; and
  - 32 4. entering into a statewide contract with an employee

1 benefits administrator or similar entity to provide one-on-one counseling services;

2 (ii) plans for holding seminars in every county of the State to provide  
3 information regarding eligibility for and available benefits under the programs established  
4 under subsections (d), (e), and (f) of this section;

5 (iii) plans for providing access to a web-based overview and  
6 interactive website that provide information on:

- 7 1. Medicare prescription drug benefit plans; and  
8 2. subsidy and financial assistance programs for low-income  
9 individuals; and

10 (iv) plans for providing a toll-free hotline for reporting issues and  
11 concerns regarding the services provided in accordance with this paragraph.

12 (i) Subject to the requirements of § 13-108 of the State Finance and Procurement  
13 Article, the Department may make an emergency procurement for:

- 14 (1) staff required to carry out the provisions of this section; and  
15 (2) a third party to administer health reimbursement accounts established  
16 under this section.

17 (j) The Department shall submit quarterly reports to the Governor and, in  
18 accordance with § 2-1257 of the State Government Article, the House Appropriations  
19 Committee, the Senate Budget and Taxation Committee, and the Joint Committee on  
20 Pensions, on:

21 (1) the status of establishing the programs under subsections (d), (e), and  
22 (f) of this section, including:

23 (i) the status of procuring any contracts necessary to operate the  
24 programs; and

25 (ii) the prescription drugs determined to qualify for reimbursement  
26 under the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program  
27 under subsection (f) of this section;

28 (2) the availability of one-on-one counseling services required under  
29 subsection (h) of this section;

30 (3) the details of the health reimbursement accounts or other programs to  
31 provide assistance with prescription drug costs for individuals enrolled in the programs  
32 under subsections (d), (e), and (f) of this section, including:

- 1 (i) the specific out-of-pocket costs eligible for reimbursement;
- 2 (ii) the required process for receiving reimbursement;
- 3 (iii) the method of reimbursement;
- 4 (iv) the timing of reimbursement; and
- 5 (v) a plan to use debit cards to process reimbursements in a  
6 convenient and efficient manner; and
- 7 (4) in total and by category for the previous quarter, the number of issues  
8 and concerns reported to the hotline.
- 9 (k) The Department shall adopt regulations to implement the provisions of this  
10 section.]

### 11 Chapter 767 of the Acts of 2019

12 [SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other  
13 provision of law, if the final resolution of the injunction issued in the U.S. District Court  
14 for the District of Maryland in Fitch v. State of Maryland et al, Case No. 1:18  
15 CV-0287-PM (D. Md.) occurs on a date that is:

16 (1) less than 9 months before the first day of the next State health benefits  
17 open enrollment period, the following shall begin on the first day of the second State health  
18 benefits plan year immediately following the resolution:

19 (i) the elimination of the State prescription drug benefits for  
20 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and  
21 Medicare-eligible dependent children or surviving dependent children of retirees under §  
22 2-509.1(b) of the State Personnel and Pensions Article;

23 (ii) the establishment of the Maryland State Retiree Prescription  
24 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug  
25 Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug  
26 Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,  
27 respectively, as enacted by Section 1 of this Act; and

28 (iii) the provision of written certified notice to individuals under §  
29 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act;  
30 or

31 (2) 9 months or more before the first day of the next State health benefits  
32 open enrollment period, the following shall begin on the first day of the State health  
33 benefits plan year immediately following the resolution following the next open enrollment  
34 period:



1 (i) the elimination of the State prescription drug benefits for  
2 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and  
3 Medicare-eligible dependent children or surviving dependent children of retirees under §  
4 2-509.1(b) of the State Personnel and Pensions Article;

5 (ii) the establishment of the Maryland State Retiree Prescription  
6 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug  
7 Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug  
8 Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,  
9 respectively, as enacted by Section 1 of this Act; and

10 (iii) the provision of written certified notice to individuals under §  
11 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.]

12 [SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General  
13 Assembly that the Department of Budget and Management establish the Maryland State  
14 Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic  
15 Prescription Drug Assistance Program, and the Maryland State Retiree Life-Sustaining  
16 Prescription Drug Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel  
17 and Pensions Article, respectively, in a manner that allows retirees to access  
18 reimbursement at the time of prescription drug purchase, through a mechanism such as  
19 debit cards.]

20 [SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General  
21 Assembly that the Department of Budget and Management attend at least one meeting  
22 each year of the Joint Committee on Pensions to update the Committee on implementation  
23 of the provisions of this Act.]

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
25 1, 2024.