Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 754 (Senator Hettleman)
Finance

Health Insurance Carriers and Pharmacy Benefits Managers - Clinician-Administered Drugs and Related Services

This bill prohibits an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers), including those that provide coverage for prescription drugs through a pharmacy benefits manager (PBM), from taking specified actions regarding the dispensing of a "clinician-administered drug." A carrier may allow (1) use of a home infusion pharmacy to dispense a clinician-administered drug and related services to an insured or enrollee in their home or (2) use of an infusion site external to the insured's or enrollee's provider office or clinic for the dispensing of clinician-administered drugs and related services. **The bill takes effect January 1, 2025, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration in FY 2025 from the $125 rate and form filing fee; review of additional filings can be handled with existing resources. No effect on the State Employee and Retiree Health and Welfare Benefits Program, as discussed below.

Local Effect: To the extent the bill's prohibitions increase the cost of health insurance, expenditures for local governments that purchase fully insured medical plans increase. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: "Clinician-administered drug" means an outpatient prescription drug other than a vaccine that (1) cannot reasonably be self-administered by the patient to whom the drug is prescribed or by an individual assisting the patient and (2) is typically administered in a physician's office, hospital outpatient infusion center, or other clinical setting by a health care provider authorized to administer the drug when acting under the direct supervision of a physician.

Under the bill, a carrier may not:

- refuse to authorize, approve, or pay a participating provider for providing covered clinician-administered drugs to an insured or enrollee;
- impose coverage or benefits limitations or require an insured or enrollee to pay an additional fee, a higher or second copay, a higher or second coinsurance, or any other penalty when obtaining clinician-administered drugs from a pharmacy or a health care provider authorized to administer the drugs;
- interfere with an insured's or enrollee's right to choose to obtain a clinician-administered drug from their provider or pharmacy of choice;
- require that only a pharmacy selected by the carrier be authorized to dispense a clinician-administered drug;
- limit or exclude coverage for a clinician-administered drug when not dispensed by a pharmacy selected by the carrier, if the drug would otherwise be covered;
- reimburse at a lesser amount for clinician-administered drugs dispensed by a pharmacy not selected by the carrier;
- condition, deny, restrict, refuse to authorize or approve, or reduce payment to a participating provider for providing covered clinician-administered drugs and related services to an insured or enrollee when all criteria for medical necessity are met due to the provider obtaining the drugs from a pharmacy that is not a participating provider in the carrier's network;
- require that an insured or enrollee pay more, as specified, for clinician-administered drugs if not dispensed by a pharmacy selected by the carrier; or
- require a specialty pharmacy to dispense a clinician-administered medication directly to an insured or enrollee with the intention that the insured or enrollee will transport the medication to a health care provider for administration.

Current Law: Generally, a carrier that provides coverage for prescription drugs, through a PBM or otherwise, may require that an insured or enrollee obtain a specialty drug through a specific pharmacy, including a pharmacy participating in the carrier's provider network if the carrier determines that the pharmacy meets its performance standards and accepts its network reimbursement fees.

A "specialty drug" means a prescription drug that (1) is prescribed for an individual with a complex or chronic medical condition or a rare medical condition; (2) costs $600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires either a difficult or unusual process of delivering the drug to the patient or enhanced patient education, management, or support before or after administration of the drug. A specialty drug does not include a prescription drug prescribed to treat diabetes, HIV, or AIDS; it does include a prescription drug prescribed to treat multiple sclerosis, hepatitis C, rheumatoid arthritis, cystic fibrosis, hemophilia, or multiple myeloma.

State Expenditures: The Department of Budget and Management (DBM) advises that the State Employee and Retiree Health and Welfare Benefits Program does not require participants to have their clinician-administered drugs dispensed at specific pharmacies; thus, the bill has no impact on the program at this time. However, DBM notes that the bill limits the program's future flexibility to implement cost-saving measures related to clinician-administered drugs.

Small Business Effect: Small business pharmacies may see an increase in revenues due to more consumers being able to obtain clinician-administered drugs from their pharmacies. Similarly, small business health care providers may see an increase in patient volume and realize higher revenues as a result of the consumer protections that the bill establishes for clinician-administered drugs.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1368 (Delegate Martinez) - Health and Government Operations.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

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