Chapter 730

**(House Bill 813)**

AN ACT concerning

~~**Pharmacy Benefits Administration – Maryland Medical Assistance Program and Pharmacy Benefits Managers**~~
**Maryland Insurance Administration and Maryland Department of Health – Workgroup to Study Pharmacy Benefits Managers**

FOR the purpose of ~~altering the reimbursement levels for drug products that the Maryland Medical Assistance Program is required to establish and that pharmacy benefits managers that contract with a pharmacy on behalf of a managed care organization are required to reimburse the pharmacy; altering the definition of "purchaser" for purposes of certain provisions of law regulating pharmacy benefits managers to include certain insurers, nonprofit health service plans, and health maintenance organizations~~ requiring the Maryland Insurance Administration and the Maryland Department of Health, *in consultation with the Prescription Drug Affordability Board*, to convene a workgroup to study certain issues related to pharmacy benefits managers and report to certain committees on or before a certain date; and generally relating to ~~pharmacy benefits administration~~ a workgroup to study pharmacy benefits managers.

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 15–118(b)~~
~~Annotated Code of Maryland~~
~~(2023 Replacement Volume and 2024 Supplement)~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 15–118(f)~~
~~Annotated Code of Maryland~~
~~(2023 Replacement Volume and 2024 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 15–1601(s)~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2024 Supplement)~~

~~BY adding to~~
~~Article – Insurance~~
~~Section 15–1632~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2024 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~~**~~]~~** **~~MINIMUM~~** ~~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 DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH THE MOST RECENT IN–STATE COST–OF–DISPENSING SURVEY.~~**

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

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

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

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

**~~Article – Insurance~~**

~~15–1601.~~

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

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

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

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

**(I) OPERATES AS A GROUP MODEL;**

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

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

**15–1632.**

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

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

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Maryland Insurance Administration and the Maryland Department of Health, *in consultation with the Prescription Drug Affordability Board,* shall:

(1) convene a workgroup of interested stakeholders, including community pharmacies from both chain and independent settings, pharmacy services administrative organizations, *health insurance carriers, plan sponsor representatives, drug wholesalers*

*and distributors, non–pharmacy benefit manager–owned mail order pharmacies, brand name and generic drug manufacturers*, pharmacists, pharmacy benefits managers, ~~and~~ managed care organizations, and third–party experts in the field of drug pricing in Medicaid;

(2) review reimbursement for pharmacists, including:

(i) existing Maryland Medical Assistance Program requirements for pharmacy benefits managers and managed care organizations related to dispensing fee reimbursement, pharmacy benefits managers fees charged to pharmacies and the Maryland Medical Assistance Program, transparency in pricing and reimbursement data, specialty drug designations, and appeals processes;

(ii) how other states' pharmacy benefits services operate in Medicaid, including in Ohio, Kentucky, New York, California, and West Virginia;

(iii) measures that offset the Department's costs to fund the Medicaid Managed Care Program and adopt NADAC plus the Fee–for–Service Professional Dispensing, including:

1. savings associated with NADAC ingredient cost pricing and managed care organizations; and

2. pharmacy benefits managers administrative fee consolidation and rebate allocations; and

(iv) strategies for adopting pharmacy reimbursement parity and drug pricing transparency;

(3) review coverage requirements for specialty drugs, including:

(i) which drugs are considered specialty for purposes of formularies across carriers and pharmacy benefits managers; and

(ii) what these drugs have in common for purposes of developing a new definition for "specialty drug";

(4) review ERISA exemptions for pharmacy benefits management regulation, including:

(i) the scope of Rutledge v. Pharmaceutical Care Management Association and subsequent case law and federal guidance;

(ii) how other states have responded to the Rutledge decision; and

(iii) what, if any, other State laws should be amended;

*(5) review the costs associated with pharmacies contracting with commercial plans versus pharmacies contracting with the Maryland Medical Assistance Program;*

*(6) review provisions of State law regarding pharmacy benefit managers, specialty pharmacies, and anti–steering, including:*

*(i) § 15–1611.1 of the Insurance Article related to the use of specific pharmacies or entities and the effect the section has on pharmacy costs in the fully insured market; and*

*(ii) § 15–1612 of the Insurance Article related to reimbursement and the effect the section has on pharmacy costs in the fully insured market;*

~~(5)~~ *(7)* on or before December 31, 2025, submit an interim report on their findings and recommendations to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1257 of the State Government Article; and

~~(6)~~ *(8)* on or before December 31, 2026, submit a final report on their findings and recommendations to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1257 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2025.

**Approved by the Governor, May 20, 2025.**