

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 321

(Delegate Kipke, *et al.*)

Health and Government Operations

Finance

Pharmacy Benefits Managers – Definition of Purchaser and Alteration of Application of Law

This bill alters the definition of “purchaser” to include an insurer, nonprofit health service plan, or health maintenance organization (HMO), with one exception, for purposes of State law governing pharmacy benefits managers (PBMs). The bill generally applies provisions of law governing PBMs to all entities providing prescription drug coverage or benefits in the State, including programs subject to the federal Employee Retirement Income Security Act of 1974 (ERISA). By January 1, 2026, the Maryland Insurance Administration (MIA) must convene a workgroup to review and make recommendations on specified provisions of law regarding PBMs, specialty pharmacies, and anti-steering, and report to specified committees of the General Assembly on its recommendations. **The bill’s workgroup provisions take effect June 1, 2025; remaining provisions take effect January 1, 2026.**

Fiscal Summary

State Effect: MIA can handle any additional workload under the bill, including increased complaint volume and the workgroup report, using existing resources. No material impact on the Maryland Department of Health or the State Employee and Retiree Health and Welfare Benefits Program. Revenues are not affected.

Local Effect: To the extent that the bill increases the cost of PBM contracts, health care expenditures for local governments may increase. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law: Chapter 358 of 2021 defined “carrier” and altered the definition of “purchaser,” including repealing the exclusion of plans subject to ERISA, for purposes of State law governing PBMs. The Act (1) applied specified provisions governing PBMs to self-funded ERISA plans; (2) altered the applicability of certain PBM requirements to apply to a carrier (rather than a purchaser); (3) specified that certain provisions apply only to a PBM that provides pharmacy benefits management services on behalf of a carrier; and (4) altered requirements regarding review and approval of certain contract forms and filings by the Insurance Commissioner.

Under current law, “purchaser” means a person that offers a plan or program in the State, including the State Employee and Retiree Health and Welfare Benefits Program, that (1) provides prescription drug coverage or benefits in the State and (2) enters into an agreement with a PBM for the provision of pharmacy benefits management services.

Under the bill, “purchaser” is expanded to include all carriers, with the exception of a nonprofit HMO that operates as a group model, provides services solely to members or patients, and furnishes services through internal pharmacy operations.

Under Chapter 358, certain provisions of law governing PBMs apply only to PBMs that provide pharmacy benefits management services on behalf of a carrier. The bill makes the following provisions of the Insurance Article apply to all PBMs:

- information on and sales of prescription drugs (§ 15-1611);
- choice of pharmacy by a beneficiary (§ 15-1611.1);
- reimbursement for a pharmaceutical product or pharmacist service (§ 15-1612);
- requirements before entering into a contract (§ 15-1623);
- rebate sharing contract requirements (§ 15-1624);
- audits by PBMs (§ 15-1629); and
- internal review process requirements (§ 15-1630).

Under current law, “specialty drug” means a prescription drug that (1) is prescribed for an individual with a complex, chronic, or 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.

The bill requires MIA, by January 1, 2026, to convene a workgroup to review and make recommendations on provisions of State law regarding PBMs, specialty pharmacies, and anti-steering. The workgroup's review must include (1) § 15-847 of the Insurance Article related to specialty drug coverage and designated pharmacies; (2) § 15-1611.1 related to choice of pharmacy by a beneficiary; (3) § 15-1612 related to reimbursement; and (4) any other provision of law that MIA determines is relevant for review. MIA must report to the Senate Finance Committee and the House Health and Government Operations Committee on its recommendations, including any legislation necessary to carry out the recommendations.

Small Business Effect: Small business pharmacies benefit from having State law protections in additional areas of the self-funded market and increased uniformity in the regulatory framework for PBMs. To the extent that PBMs incur costs to comply with the bill's requirements and subsequently raise their fees, health insurance premiums in the small group market increase slightly.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 626 and HB 726 of 2024; SB 898 and HB 357 of 2023; and SB 690 and HB 1014 of 2022.

Designated Cross File: SB 303 (Senator Lam) - Finance.

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

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