HB 1013

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1013 (Delegate Kerr)
Health and Government Operations

Maryland Medical Assistance Program and Health Insurance - Nonopioid Drugs for the Treatment of Pain

This bill requires certain insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that provide coverage for prescription drugs (including through a pharmacy benefits manager (PBM)) and Medicaid to cover any nonopioid drug approved by the U.S. Food and Drug Administration (FDA) for the treatment of pain. The bill imposes limitations on prior authorization, step therapy, and fail-first protocols, as specified. By December 1, 2026, each carrier must submit a specified plan for review by the Maryland Insurance Administration (MIA). **The bill's plan submission requirement takes effect July 1, 2025; other provisions take effect January 1, 2026, and apply 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 special fund revenue increase for MIA in FY 2026 only from the $125 rate and form filing fee. MIA can review carrier plan submissions using existing resources. Medicaid expenditures increase by $9.0 million annually (60% federal funds, 40% general funds) beginning in FY 2027; federal fund revenues increase accordingly. State Employee and Retiree Health and Welfare Benefits Program expenditures increase by a significant amount, likely millions of dollars, beginning in FY 2026. **This bill increases the cost of an entitlement program beginning in FY 2027.**

($ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
FF Revenue	$0	$5.4	$5.4	$5.4	$5.4
GF/FF Exp.	$0	$9.0	$9.0	$9.0	$9.0
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	($-)	($-)	($-)	($-)	($-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential increase in health insurance premiums for local governments that purchase fully insured plans. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Coverage Requirement

Coverage for any nonopioid drug approved by FDA for the treatment of pain must be provided to the same extent as a covered opioid or narcotic used for the treatment of pain.

Limitations on Prior Authorization, Step Therapy, and Fail-first Protocols

A carrier may not apply a prior authorization requirement for a nonopioid prescription drug approved by FDA for the treatment of pain that is more restrictive than one applied to an opioid or narcotic drug used for the treatment of pain.

A carrier may not impose a step therapy or fail-first protocol on an insured or enrollee for a prescription drug if the drug is a nonopioid drug approved by FDA for the treatment of pain and the carrier does not impose a step therapy or fail-first protocol for an opioid or narcotic drug used for the treatment of pain.

Medicaid

Beginning July 1, 2026, Medicaid – including managed care organizations – must provide the same coverage as carriers for a nonopioid drug approved by FDA for the treatment of pain.

Medicaid may not apply a prior authorization requirement, fail-first protocol, or step therapy protocol for a nonopioid drug approved by FDA for the treatment of pain that is more restrictive than one applied to an opioid or narcotic drug for the treatment of pain.

Carrier Plans for Pain Management Services

By December 1, 2026, specified carriers that provide coverage for prescription drugs must submit to MIA a plan to provide adequate coverage and access to a broad spectrum of pain management services, including nonopioid drugs and nonpharmacologic, nonoperative pain management modalities that serve as an alternative to the prescribing of opioid drugs. MIA must review each plan to determine whether a carrier is in compliance with the bill and whether any policies adopted by the carrier may create unduly preferential coverage of and access to opioid drugs.

Current Law: Under Maryland law, there are more than 50 mandated health insurance benefits that certain carriers must provide to their enrollees. The federal Patient Protection and Affordable Care Act requires nongrandfathered health plans to cover 10 essential health benefits (EHBs), which include items and services in the following categories: (1) ambulatory patient services; (2) emergency services; (3) hospitalization; (4) maternity and newborn care; (5) mental health and substance use disorder services, including behavioral health treatment; (6) prescription drugs; (7) rehabilitative and habilitative services and devices; (8) laboratory services; (9) preventive and wellness services and chronic disease management; and (10) pediatric services, including dental and vision care.

Under § 31-116 of the Maryland Insurance Article, EHBs must be included in the State benchmark plan and, not withstanding any other benefits mandated by State law, must be the benefits required in (1) all individual health benefit plans and health benefit plans offered to small employers (except for grandfathered health plans) offered outside the Maryland Health Benefit Exchange (MHBE) and (2) all qualified health plans offered in MHBE.

Chapters 316 and 317 of 2014 established requirements for step therapy or fail-first protocols imposed by carriers, including carriers that provide coverage for prescription drugs through a PBM. "Step therapy or fail-first protocol" means a protocol established by a carrier that requires a prescription drug or sequence of prescription drugs to be used by an insured or enrollee before a prescription drug ordered by a prescriber is covered.

A step therapy or fail-first protocol may not be imposed if the step therapy drug has not been FDA-approved for the medical condition being treated or a prescriber provides supporting medical information to the carrier or PBM that a prescription drug covered by the carrier or PBM (1) was ordered for the insured or enrollee within the past 180 days and (2) based on the professional judgment of the prescriber, was effective in treating the insured or enrollee. These requirement for step therapy or fail-first protocols may not be construed to require coverage for a prescription drug that is not covered by the policy or contract or otherwise required to be covered by law.

A carrier may not impose a step therapy or fail-first protocol on an insured or enrollee for an FDA-approved prescription drug that is used to treat the insured's or enrollee's stage four advanced metastatic cancer if the use of the drug is supported by peer-reviewed medical literature and is consistent with the FDA-approved indication or the National Comprehensive Cancer Network Drugs & Biologics Compendium indication for the treatment of stage four metastatic cancer.

State Fiscal Effect:

Medicaid

Maryland Medicaid currently provides coverage of nonopioid analgesic medications. The majority of these medications do not require prior authorization, fail-first protocols, or step therapy protocols unless they have clinical criteria, quantity limits, or are not on Medicaid's preferred drug list. Conversely, most (but not all) opioid medications require prior authorization, and some require step therapy.

Under the bill, Medicaid may not apply a prior authorization requirement, fail-first protocol, or step therapy protocol for a nonopioid drug approved by FDA for the treatment of pain that is more restrictive than one applied to an opioid or narcotic drug for the treatment of pain. The Maryland Department of Health advises that, because some opioid and narcotic drugs have no prior authorization, fail-first, or step therapy requirements, the bill effectively prohibits any nonopioid drug from being subject to such requirements. As a result, Medicaid must eliminate prior authorization, fail-first, or step therapy requirements for all nonopioid analgesic medications. This results in a shift in utilization to branded, branded generic, and higher cost generic drugs, with an increase in cost per prescription.

Medicaid estimates that expenditures on nonopioid analgesic medications increase by an estimated $9.0 million annually (60% federal funds, 40% general funds) beginning in fiscal 2027, with the bill's requirements beginning July 1, 2026. Federal fund revenues increase accordingly. This estimate assumes that the number of prescriptions remains steady and there is no change in supplemental rebates.

State Employee and Retiree Health and Welfare Benefits

The State Employee and Retiree Health and Welfare Benefits Program is largely self-insured for its medical contracts and, as such, except for the one fully insured integrated health model medical plan (Kaiser), is not subject to this bill. However, the program generally provides coverage as otherwise required under State law.

The Department of Budget and Management (DBM) advises that the bill would require the program to add nonopioid alternatives to the prescription drug formulary that may currently be excluded, resulting in a significant cost shift from the member to the program. The bill also limits utilization review for nonopioid medications approved by FDA for the treatment of pain. As a result, program costs increase by a significant amount, likely by millions of dollars annually, beginning in fiscal 2026. DBM notes that offsetting savings may arise to the extent that use of nonopioid pain medications reduces the incidence of opioid addiction and overdose.

Small Business Effect: Health insurance premiums in the small group market may increase to cover the cost of any FDA-approved nonopioid drug for the treatment of pain.

Additional Information

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

Designated Cross File: SB 974 (Senator Lam) - Finance.

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

Fiscal Note History: First Reader - February 26, 2025
km/ljm

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510