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February 27, 2020

To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: House Bill 885 (Pharmacy Benefits Managers - Duties and Obligations): Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports House Bill 885 because the ongoing conduct of pharmacy benefits managers (PBMs) in Maryland does not always appear to be in the best interests of the beneficiary and the purchaser, which this bill would address.

Under Md. Code Ann., Ins. § 15-1601 (o)(1), "purchaser" means the State Employee and Retiree Health and Welfare Benefits Program, an insurer, a nonprofit health service plan, or a health maintenance organization that (i) provides prescription drug coverage or benefits in the State; and (ii) enters into an agreement with a PBM for the provision of pharmacy benefits management services. The bill expressly provides that a PBM has a duty and an obligation to the beneficiary and the purchaser to perform all PBM services (1) with care, skill, prudence, diligence, and professionalism and (2) primarily in the best interests of the beneficiary and the purchaser.

If the Maryland Insurance Administration (MIA) investigates and determines that a PBM has violated this new provision, or any other provision of the PBM subtitle, the MIA may order a PBM to (1) cease and desist; (2) take specific affirmative corrective action; (3) make restitution of money, property, or assets; or (4) pay a fine of up to \$10,000 for each violation of the subtitle.

We urge the committee to give the bill a favorable report.

cc: Sponsors and Members of the Health and Government Operations Committee