HB 602

Maryland Medical Assistance Program and Managed Care Organizations That Use Pharmacy Benefit Managers-Reimbursement Requirements

Position of: INDEPENDENT PHARMACIES OF MARYLAND

Position: FAVORABLE

WHAT THIS BILL DOES:

The bill requires Pharmacy Benefit Managers (PBMs) to reimburse pharmacies under Medicaid at certain levels for dispensing prescriptions. The reimbursement level shall be at least equal to (1) the National Average Drug Acquisition Cost of the drug product, plus (2) the Fee-For-Service professional dispensing fee determined by MDH in accordance with the most recent cost of dispensing survey.

WHAT ARE PBMs, AND WHAT DO THEY DO:

PBMs are the middlemen between insurers, managed care organizations, pharmaceutical companies, and pharmacies. PBMs are hired by insurers and managed care organizations to negotiate prices with pharmaceutical companies, and also reimbursement amounts to the pharmacies which provide prescriptions to the beneficiaries of the health plan.

There are three PBMs which control approximately 80% of the market. In addition, PBMs often have common ownership or corporate affiliation with the insurers or the managed care organizations, and with larger chain pharmacies. The incentive, of course, is to steer consumers to their affiliated pharmacies.

PBMs develop drug “formularies”, i.e., the list of drugs that a particular insurance or drug plan will pay for, for its beneficiaries. Pharmaceutical companies pay PBMs to have their drugs listed on the formulary. This represents a substantial source of revenues to PBMs. In addition, PBMs are reimbursed one price for a drug by an insurer or managed care organization (mco), but reimburse pharmacies a lesser price for the drug. The PBM keeps the price difference; this is known as “spread pricing” and is also a significant source of revenue for PBMs. In 2018, that spread amounted to $72 million for the PBMs. PBMs set the copays that beneficiaries will pay for a drug. PBMs then clawback a portion of that copay for their own use. And PBMs set the professional dispensing fee, the fee for dispensing a drug, that a pharmacy will receive from the PBM.

Most Medicaid in MD is through Managed Care Organizations which use PBMs. A small percentage is handled directly through the state, known as fee-for service. Under the fee for service program, a pharmacy is paid a professional dispensing fee which represents the actual costs to a pharmacy for dispensing a prescription. This dispensing fee is certified by the Center for Medicare and Medicaid Services (CMS), a federal agency.

In 2020, CMS listed the professional dispensing fee at $10.49 per prescription. That amount is paid to pharmacies under the fee for service Medicaid program. However, under the main Medicaid program administered by PBMs, the PBMs paid MD pharmacies approximately 50 cents per prescription as a dispensing fee, as found by the MDH authorized Myers and Stauffer study in 2019.

HOW PROFITABLE ARE PBMs:

PBMs make no drugs, do not take possession of any drugs, do not sell drugs to pharmacies, and do not dispense prescriptions to beneficiaries. And although there is a remarkable lack of transparency around PBM revenues and profits, and PBMs keep these figures confidential, it appears that PBMs are among the most profitable part of the prescription supply chain.

PBMs may not make drugs, but one thing they do make is profit, more than others in the drug supply chain. A Wall Street Journal article, dated February 24, 2018, titled “Hidden Profits in the Prescription Drug Supply Chain” reported on an analysis by Alliance Bernstein, an investment firm. That analysis concluded that PBMs are the most profitable of businesses in the drug supply chain.

WHY THIS BILL IS NEEDED:

At the present time, independent pharmacies in the Medicaid plan are being grossly undercompensated by the PBMs, both in reimbursements for drug costs, as well as the professional dispensing fee. In some cases, they are filling prescriptions at a loss, and are not even compensated for the full price of the drug. The 2019 study from Myers and Stauffer, for example, found that the discount to pharmacies from the average wholesale price (AWP) for brand name products was 18%; for generic products the discount from AWP was approximately 36%. For professional dispensing fees, pharmacies are paid on average 50 cents per prescription, when the CMS recognized dispensing fee in the non-PBM fee-for-service plan is $10.49.

PBMs are the highly profitable middlemen who take a cut out of every prescription, rather than compensating pharmacies fairly for their activities. As just one example, the Myers and Stauffer

report found that PBMs were compensated $72 million for spread pricing in 2018. In addition, PBMs receive other fees, such as payments from pharmaceutical companies to have drugs listed on the plan's formulary. By just eliminating spread pricing, as other states have done, would free up additional funds now held by PBMs to help pharmacies be compensated fairly.

Finally, any fiscal analysis of this bill (the fiscal note for this session was not available at the time of this position paper) needs to reflect excessive PBM profits that should be required to be used to reimburse pharmacies for their true costs, as this bill would do, rather than have independent pharmacies, in effect, subsidize PBMs.

Contact:

James J. Doyle

Jimdoyle3@comcast.net

443-676-2940