

HB755: Pharmacy Benefits Managers - Prohibited Actions

House Health and Government Operations Committee

March 10, 2022

Position: SUPPORT WITH AMENDMENT

Synopsis: Prohibiting a pharmacy benefits manager from taking certain actions related to pricing, the participation of a pharmacy or pharmacist in a policy or contract with the pharmacy benefits manager, fees, and the use of a mail order pharmacy by beneficiaries; providing that certain provisions of the Act apply to pharmacy benefits managers that contract with managed care organizations in the same manner as they apply to pharmacy benefits managers that contract with carriers; etc.

Position: The Maryland Chain Drug Store Association in in full support of efforts to help protect our retail community pharmacies by ensuring PBM transparency and improving patient access to a consumer's chosen pharmacy.

We are concerned there is an inadvertent loophole in the legislation because the bill only says PBMs *cannot charge different co-pays to retail than they do to mail*. For example, if a patient's preferred brand prescription co-pay is \$30, then a PBM could still allow the member to get a 90 day's supply of drug at mail order for a \$30 copay, but only allow a 30 day's supply of that same drug at retail for a \$30 copay. We proffered multiple language solutions, but all stakeholders have yet to agree and we look forward to solving this in subcommittee.

- a. **Solution:** A definition to the word "copay". Copay in this bill means *the same dollar amount is applied to the beneficiary's cost share per equivalent day's supply at network retail and mail order pharmacies*.
- b. **Solution #2:** Build it into (B)(4) - SET DIFFERENT FEES FOR A BENEFICIARY'S COPAY "**over the same duration of therapy**" or "**for the same day's supply**" BASED ON WHETHER A PHARMACY OR PHARMACIST IS AFFILIATED WITH
- c. **Solution #3:** (B)(4) SET DIFFERENT FEES FOR A BENEFICIARY'S COPAY **per equal day's supply** BASED ON WHETHER A PHARMACY OR PHARMACIST IS AFFILIATED WITH...
- d. **Solution:** SET DIFFERENT FEES FOR A BENEFICIARY'S COPAY BASED ON WHETHER A PHARMACY OR PHARMACIST IS AFFILIATED WITH **a retail pharmacy, such as an independent or chain pharmacy, as the copay per day's supply that the PBM sets up for mail order pharmacy**

We fully support this legislation but need to clarify this language and urge a favorable vote. Thank you for your time and consideration.