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SB 349 State Prescription Drug Benefits – Retirees
Senate Budget and Taxation Committee
FAVORABLE
February 28, 2024

Good afternoon, Senator Guzzone and Members of the Senate Budget and Taxation Committee. I am Tammy Bresnahan, Senior Director of Advocacy for AARP Maryland. AARP Maryland advocates for two million Marylanders age 50 and over.

SB 349 authorizes State of Maryland retirees who began State service before July 1, 2011, should be eligible for prescription drug benefits in the Maryland State Employee and Retiree Health and Welfare Benefits Program. We thank Senator McKay for sponsoring this important piece of legislation for the retired Maryland state employees.

History of the benefit change

The 2011 pension reform bill initially scheduled the change to take place in 2019 for all retirees who qualified for Medicare Part D coverage, regardless of the day they were hired or the terms of their benefits package agreed upon then.

State retirees and we believe are justified, they argue that the law breaks the contract by revoking benefits that they signed up for when they hired many years ago and have planned their retirement counting on those benefits.

In the federal court case *Fitch v. State of Maryland*, U.S. District Court Judge Peter J. Messitte granted a temporary injunction October 2018, and retirees were able to maintain their original state prescription drug coverage as the litigation continued. The state appealed the ruling.

In February 2023 the federal Fourth Circuit Court of Appeals ruled against the temporary injunction, allowing the state to move forward with plans to end the state prescription drug coverage and move retirees to Medicare Part D. The change to Medicare Part D coverage means that retirees must pay out-of-pocket and seek reimbursement for purchasing drugs that they need. In addition, Medicare Part D does not cover the same prescriptions that the state plan does, some state retirees fear. The fact is this is an older population that is not only taking a lot of drugs and they need this benefit.

There have been legislative attempts to restore the state prescription drug plans to retirees who were hired before changes were made to the law in 2011, but so far, such efforts have been unsuccessful. However, in December 2023, thousands of retired state workers received a letter from Maryland's Department of Budget and Management alerting them that major changes are

coming to their prescription drug plans. Based on State of Maryland law passed in 2019, current prescription drug coverage will end December 31, 2024.

As you may know, many retirees are not happy. At issue is a change to benefits for former employees of Maryland government who are receiving partially state-funded prescription drug coverage during retirement. Those benefits are set to shift from the current state retiree health care program to coverage through the federal Medicare Part D plan at the end of the year.

A years-long controversy and an eventual legal challenge have roots in Maryland's 2011 pension reform legislation, particularly the part which aimed to end the state's prescription drug coverage for Medicare-qualified state retirees and move them to Medicare part D, the federal prescription drug plan for retirees. Those who are retired but do not qualify for Medicare will remain on the state's prescription drug plan, until they qualify for Medicare. Former state employees who were hired before the change want to stay with the state plan that they agreed to when they were hired. They fear that the Medicare Part D coverage may not adequately cover their prescription drug costs.

Retirees feel like the state has backed down on a benefit and it's disappointing because the drug benefit does not align with the benefit package many state employees thought they would be getting during retirement.

AARP believe the States should provide retired state and local employees and spouses with opportunities and options for adequate health insurance coverage especially prescription drugs.

States should provide Medicare-eligible retirees with benefits that supplement Medicare and for these reasons, we ask for a favorable report on SB 349. If you have questions please contact me at tbresnahan@aarpp.org or by calling me at 410-302-8451,