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Date: **February 5, 2025**

Bill # / Title: **Senate Bill 393 - Health Insurance – Health Insurance - Prescription Drug Formularies and Coverage for Generic Drugs and Biosimilars**

Committee: **Senate Finance Committee**

Position: **Letter of Information**

The Maryland Insurance Administration (MIA) appreciates the opportunity to provide information regarding Senate Bill 393.

Senate Bill 393 mandates that health insurance carriers in Maryland provide transparent and accessible information about their prescription drug formularies online. It also requires carriers to offer generic drugs and biosimilars at more favorable cost-sharing terms than their brand-name counterparts, without imposing additional barriers such as prior authorization or step therapy.

The MIA notes for the Committee certain provisions of SB 393 that could be clarified to improve clarity and enforceability.

The formulary requirements in new § 15-147 of the Insurance Article, created in the bill, apply to carriers defined very broadly as insurers, nonprofit health service plans, HMOs, dental plan organizations and any other person that provides health benefit plans subject to regulation by the State. The bill would benefit from increased clarity if the language were to specify that these formulary requirements would only be applicable if prescription drug coverage was required by the carrier.

In addition, the bill contains a definition of formulary which, as presently drafted, could limit the types of coverage and formulary designs to which the bill applies. The proposal defines "formulary" as a list of prescription drugs that is developed by a carrier's pharmacy and therapeutics committee or other clinical and pharmacy experts, and represents the prescription drugs approved for coverage under a health benefit plan. The reference to "health benefit plan" limits the types of coverage to which the new statute applies.
The bill also contains a number of requirements for insurance carriers which, as written, would need to be further defined to be enforceable. For example, the bill requires carriers to post updated, accurate formularies on their websites that are "easily accessible" to enrollees. It also

requires carriers to "immediately make a generic drug/biosimilar available on a formulary with more favorable cost-sharing," and states that "an entity subject to this section may not impose a restriction on a pharmacy that makes it more difficult for an enrollee to obtain coverage for or access to a generic drug/biosimilar added to a formulary." If the bill is not revised to contain more specific requirements, MIA would further define these terms through regulation.

The bill also requires that changes to a formulary during a plan year be posted on a carrier's website within 30 days after the change. Current law, §15-831(f) of the Insurance Article, requires notice of a change to the formulary be given 30 days before the change is implemented. The MIA recommends adding text to clarify that this new requirement is meant to be an addition to, and not a substitute for, the current requirements. The MIA further recommends that the bill include language indicating that the formulary posted on the website must be accurate, that inaccuracies in the formulary constitute a violation of the Insurance Article, and require carriers to have procedures in place which keep the formularies up-to-date.

Finally, the bill adds provisions to §15-861 of the Maryland Insurance Article which give carriers broad authority to not cover drugs at their own discretion. In particular, new subsection §15-861(g) contains an exception from required coverage if it is no longer medically appropriate or cost effective. The language may conflict with other required coverages in the Insurance Article unless further clarified.

Thank you for the opportunity to provide this letter of information. The MIA is available to provide additional information and assistance to the Committee.