Date: February 12, 2025
To: The Honorable Pamela Beidle, Chair, Senate Finance Committee
From: Aliyah N. Horton, FASAE, CAE, Executive Director, 240-688-7808
Cc: Members, Senate Finance Committee
Re: **FAVORABLE – SB438 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers**

The Maryland Pharmacists Association (MPhA) and the Maryland Pharmacy Coalition (MPC) support a favorable report of **SB 438 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers.** At the core, we must restore fairness to a system that is currently rigged in favor of pharmacy benefit managers (PBMs) that profit at the expense of patients, pharmacies and payers.

According, to the Maryland Board of Pharmacy we have experienced a net 2% decrease in pharmacies each year over the last two fiscal years. Not addressing a fair payment model for pharmacies will continue to exacerbate growing pharmacy and healthcare deserts in Maryland.

The bill calls for pharmacies to be paid for the cost of the medications they dispense, and the time used for that process - based on REAL TRANSPARENT data – the National Average Drug Acquisition Cost (NADAC) plus a dispensing fee based on the Department of Health's cost of dispensing survey. The payment model is inherently more transparent than the current system. It ties payments directly to drug acquisition costs rather than secret PBM calculations. It is not a money-maker for pharmacies but creates a break-even sustainable option in a system that is designed to put non-PBM affiliated pharmacies out of business.

Despite its own data identifying the actual cost of dispensing medications, **the State of Maryland paid an average professional dispensing fee on each MCO pharmacy claim an average of 67 cents for CY 2021 and 59 cents for CY2022. The state, based on its PBM's administration of its pharmacy benefit, underpaid pharmacies approximately $78.2 million dollars per year.**

In 2019 due to pharmacy community advocacy the Department of Health identified that PBMs were keeping approximately $72 million in spread pricing. Spread pricing is the difference between how much a PBM reimburses the pharmacy for a drug and the higher price they charge the plan (or state) for the same prescription.
The state subsequently eliminated spread pricing and did nothing to address the under-reimbursement gap for pharmacies. As a result, pharmacies continue to close and PBMs continue to extract excessive profits from the system.

The committee has already received the FTC reports that have shown the massive profits being raked in by PBMs from spread pricing, shortchanging of pharmacy reimbursements, DIR fees, claw backs, patient steering, and markups on specialty drugs. These issues will not go away unless there is a legislative change.

This payment model is not put on any other healthcare provider. Other providers have options to cap the number of Medicaid patients they serve and even opt-out of individual plans. Pharmacy contracts do not allow that option – they are either in or out.

Pharmacies provide a safe space for pharmacists, as accessible health care providers, to serve their communities. They are also businesses that statutorily cannot operate like any other. They are not allowed to:

- pick and choose customers
- decide whether to take a contract or not
- refuse to dispense a medication if they cannot cover costs; or
- require a Medicaid patient to pay if they do not have the money.

The biggest threat to pharmacy access is the unchecked power of PBMs. The General Assembly must pass SB 438 to ensure

- patients can access medications in their communities;
- transparency and predictable drug pricing and services for pharmacies; and
- sustainable pharmacy operations

MPhA and MPC urge a FAVORABLE report on SB 438.

MARYLAND PHARMACISTS ASSOCIATION - Founded in 1882, MPhA is the only state-wide professional society representing all practicing pharmacists, pharmacy technicians and student pharmacists in Maryland. Our mission is to strengthen the profession of pharmacy, advocate for all Maryland pharmacists and promote excellence in pharmacy practice.

MARYLAND PHARMACY COALTION
Full Members

- Maryland Pharmacists Association
- American Society of Consultant Pharmacists – Maryland Chapter
- Maryland Pharmaceutical Society
- Maryland Society of Health System Pharmacists
- University of Maryland Baltimore School of Pharmacy Student Government Association
- University of Maryland Eastern Shore School of Pharmacy Student Government Association
- Notre Dame of Maryland University School of Pharmacy Student Government Association

Affiliate Members

- University of Maryland Baltimore School of Pharmacy
- University of Maryland Eastern Shore School of Pharmacy
- Notre Dame of Maryland University School of Pharmacy
- Maryland Association of Chain Drug Stores

2025-02-12 SB 438 MCO NADAC+ EPIC Testimony.pdf
Uploaded by: Brian Hose
Position: FAV

Testimony offered on behalf of:

EPIC PHARMACIES, INC.

IN SUPPORT OF:

SB 438 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

Hearing 2/12 at 1:00PM

EPIC Pharmacies Supports SB 438 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers.

To continue to provide services to the citizens of Maryland, EPIC Pharmacies believes it is essential to have a fair and transparent pricing structure for Medicaid Managed Care Organizations (MCO's). The current pricing structure unfairly allows PBMs to reimburse the majority of MD MCO prescription claims below the cost retail pharmacies must pay to acquire the medication. **In 2024, 57.2% of the prescriptions I filled for MD Medicaid MCOs were paid below my cost for the drug and 92.9% were paid below my cost to dispense.** Medicaid Fee for Service (FFS) on the other hand, is federally obligated to survey and evaluate the prescription market in Maryland, and to reimburse pharmacies based upon the actual cost to acquire and dispense those medications. This has been accomplished by an independent accounting firm who continuously surveys the actual medication costs from real invoices to publish the National Average Drug Acquisition Cost or NADAC. This acquisition price and the Maryland survey of actual dispensing costs, yields a break even reimbursement that is much more fair than the current MCO payments. Both NADAC and the MD FFS dispensing fee (currently $10.67) are based in reality and are not beholden to generating profit for PBM executives or stockholders.

Pharmacies cannot continue to provide uncompensated care to the patients within these Medicaid MCO plans. Last year my small pharmacy dispensed 3664 prescriptions to patients from five Maryland Medicaid MCO plans. We were reimbursed a total of $191,133.68 for those claims which sounds like a lot until you consider our cost to provide those prescriptions and accompanying unfunded services was $217,562.66, **resulting in a loss to the pharmacy of $26,428.98 for 2024!** Why should community pharmacies subsidize the state of Maryland's Medicaid MCO plans? I can tell you that many like me are actively looking for ways to stop bearing the burden of donating these resources to the state. We have decreased hours of operation, staffing levels, and limited our inventory which have all decreased the service we provide to our community. This is happening across the state in independent and chain pharmacies. There is one 3 letter chain that doesn't even allow patients to speak directly with a staff member at their local pharmacy any longer to cut costs. If we don't find a way to pay for prescriptions fairly, we will continue to see a decrease in pharmacy services to our communities.

We had high hopes for the MCO study that was commissioned by legislation in 2023 and was to be completed in October of last year. When the study came out in December, we were disappointed by the failure of the department to make any recommendations or even meet the charges of the study. There was little transparency in the study design and we are still not sure if the PBM owned pharmacy claims for expensive specialty drugs filled through mail order were even included in the calculations. While not addressing all of the actual study charges, they were happy to look at 2 years of pharmacy opening and closing data during the pandemic to imply that pharmacies are healthy and being paid fairly. The reality is that, over the last decade, we have seen a loss of independent pharmacies and chain pharmacies in the state of MD. There are now fewer chains and independent pharmacies in MD communities. Industry experts believe that this trend will continue and there will be more pharmacy closures in 2025. You don't have to search very hard to find chain closure notifications and independents are quietly disappearing in your neighborhoods. These low Medicaid MCO reimbursements certainly play a significant role in those decisions for corporations and independent owners.

When the Maryland Medicaid Fee for Service program converted from AWP based pricing to NADAC based pricing, the FFS Division Chief told stake holders that NADAC pricing would more equitably spread State of Maryland funding to all stakeholders rather than the previous system, where a few stakeholders had outsized gains to the detriment of the others. We could not agree with him more. That conversion in price methodology was considered net neutral for MD and we believe that if done correctly, this change in the MCO program could also be neutral to the State budget contrary to the findings of a failed MCO study.

As such, EPIC Pharmacies recommends a favorable report on HB 438 because we need your help.

Thank you,

Brian M. Hose, PharmD
CEO
EPIC PharmPAC Chairman
brian.hose@gmail.com

MD - NACDS MACDS Testimony to Senate Finance Cmte
Uploaded by: cailey locklair
Position: FAV

NACDS and MACDS Testimony to the Maryland Senate Finance Committee
Wednesday, February 12, 2025

Support Senate Bill 438 – Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

Chair Beidle, Vice Chair Hayes, and Members of the Senate Finance Committee, the National Association of Chain Drug Stores (NACDS) and the Maryland Association of Chain Drug Stores (MACDS) would like to offer our sincere thanks for the opportunity to testify in support of SB 438. Senator Lam, thank you for authoring this important bill, one that is paramount to continued access to medications for Marylanders by ensuring that pharmacies and pharmacy providers are reimbursed for, at a minimum, the costs associated with acquiring and dispensing these lifesaving medications.

Importantly, SB 438 takes an invaluable step in supporting fair and adequate pharmacy reimbursement that will help to ensure sustained patient access to pharmacy care services at neighborhood pharmacies for enrollees in the Maryland Medical Assistance Program. Specifically, SB 438 requires pharmacies and pharmacists be reimbursed, at a minimum, the National Average Drug Acquisition Cost (NADAC) of the product, as well as a professional dispensing fee set at 100 percent of the fee-for-service dispensing fee as set by the Department according to the most recent in-state cost of dispensing survey – effectively creating a rate floor for products dispensing to enrollees in the Maryland Medical Assistance Program.

Fair and adequate pharmacy reimbursement should always be comprised of two parts: 1) the ingredient cost for the prescription drug; and 2) a professional dispensing fee across payer markets to help ensure reasonable reimbursement and sustainable pharmacy service for Marylanders. Without necessary rate floors that ensure reasonable and sufficient reimbursement for community pharmacies, inadequate or below-cost reimbursement to pharmacies and pharmacists has already, and is likely to continue, to result. This outcome could force pharmacies to either operate at a loss, be unable to stock certain medications, or worse, potentially close their doors permanently—negatively impacting Marylanders by ultimately worsening patient outcomes, reducing medication adherence, and increasing prescription abandonment and hospitalizations.

In fact, the detrimental impact of pharmacies and pharmacists being reimbursed at inadequate rates has been widely reported and has become, simply put, insurmountable for many pharmacies. Throughout Maryland, neighborhood pharmacies – retail chain pharmacies and independent pharmacies alike – are experiencing the economic hardship associated with shouldering the financial burden of continued unsustainable, below-cost reimbursement that threatens their long-term viability, and ultimately, patient access to lifesaving care. In establishing a cost-based reimbursement rate floor, SB 438 will provide pharmacies and pharmacists with long-overdue reimbursement predictability related to the crucial health care services they provide to Marylanders.

NACDS, MACDS, and their members appreciate the Senate Finance Committee's continued efforts to reduce prescription drug costs and enhance affordability for patients across Maryland and welcome the opportunity to further collaborate to address these priorities. With 90 percent of Americans living within 5 miles of a pharmacy, SB 438 will help to ensure Maryland's families have sustained access to pharmacy care at their neighborhood pharmacies. Marylanders rely on neighborhood pharmacies for access to important healthcare services like health screenings, disease management, vaccinations, testing services, and patient counseling, as well as essential medication access. Plainly stated, fair and adequate cost-based reimbursement rates shape patients' access to this type of care at their local pharmacies. SB 438 is critical for patient access and will protect neighborhood pharmacies. **For all of these reasons, NACDS, MACDS, and their members strongly endorse SB 438 and urge the Senate Finance Committee to advance the legislation as expediently as possible.**

SB 438 - NCPA supports.pdf
Uploaded by: Joel Kurzman
Position: FAV

February 10, 2025

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Support for SB 438

Dear Chair Beidle and Members of the Committee:

The National Community Pharmacists Association (NCPA) is writing to express its strong support for the Managed Medicaid pharmacy reimbursement floor proposed in SB 438. NCPA represents the interest of America's community pharmacists, including the owners of more than 19,400 independent community pharmacies across the United States and more than 330 independent community pharmacies in Maryland. These pharmacies employed more than 3,500 individuals and they filled nearly 20 million prescriptions in 2023.

Fee-for-service Medicaid reimbursement rates are transparent and both cost- and evidence-based. The Centers for Medicare and Medicaid Services requires Medicaid pharmacy programs reimburse the actual acquisition cost of drugs plus a professional dispensing fee determined by a cost of dispensing survey. We support SB 438's proposal to use the National Drug Average Acquisition Cost benchmark (NADAC), which is updated on a monthly basis. We also support the use of a professional dispensing fee from a recent cost of dispensing survey conducted by the Department of Health. NCPA encourages the State of Maryland to conduct regular cost of dispensing surveys to keep the professional dispensing fee updated and reflective of a pharmacy's cost to dispense.

Recognizing the value to taxpayers of requiring transparent reimbursements in their Medicaid managed care programs, Arkansas, Georgia, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, and North Carolina require MCOs and PBMs to reimburse pharmacies at the same rates established under the fee-for-service program. Nebraska, New Mexico, and Ohio do so as well, but target the policy to pharmacies based on Medicaid volume or status as an independent pharmacy. If such transparent reimbursement methodologies were adopted nationwide, federal Medicaid spending would drop by almost $1 billion over 10 years.[1]

1 https://www.finance.senate.gov/imo/media/doc/2020-03-13%20PDPRA-SFC%20CBO%20Table.pdf

100 Daingerfield Road
Alexandria, VA 22314-2888
703.683.8200 PHONE
703.683.3619 FAX

We wish to thank Senator Lam for his sponsorship of the bill. We urge your support of SB 438. Thank you for your time and consideration of this excellent opportunity for the State of Maryland. If you have any questions, please do not hesitate to contact me at (703) 600-1186 or joel.kurzman@ncpa.org.

Sincerely,

Joel Kurzman
Director, State Government Affairs

2025 IPMD SB 438 Senate Side.pdf
Uploaded by: Michael Paddy
Position: FAV

Committee: **Senate Finance**

Bill Number: **Senate Bill 438 - Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers**

Hearing Date: **February 12, 2025**

Position: **Support**

The Independent Pharmacies of Maryland (IPMD) support *Senate Bill 438 - Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers.* This bill would require minimum reimbursement levels to certain pharmacies under Medicaid at least equal to the National Average Drug Acquisition Cost (NADAC) acquisition cost of the drug plus a professional dispensing fee determined in accordance with the most recent in state cost-of-dispensing survey.

To understand the process, Maryland Department of Health's Medicaid Managed Care Program (MCPA) oversees among other things, pharmacy services to Medicaid recipients who are enrolled in the Managed Care Program. MCPA contracts with Managed Care Organizations (MCO) to provide healthcare, including pharmacy services, to enrolled Medicaid recipients in exchange for specified capitation payments. Each MCO independently contracts with a PBM that is then responsible for administering virtually all aspects of the MCO pharmacy activities including pharmacy network management, claims processing, and payments to the pharmacies. According to a 2020 Myers and Stauffer study, the average dispensing fee is about 50 cents, well below actual costs. Similar reviews have noted a dispensing fee between 59 cents and 67 cents. Under traditional Medicaid fee for service, reimbursements approved by CMS, the professional dispensing fee is $10.67. This bill in part would require parity between both models.

This issue is not unique to Maryland and other states have worked to address these reimbursement inequities a number of ways. Similar bills have recently passed in both New Mexico and Nebraska. In New Mexico, the State Auditor reported in 2021 an investigation of New Mexico Medicaid Managed Care's (MMC) PBM's practices of overbilling New Mexico for Medicaid prescription drug claims, along with a referral to the New Mexico Attorney General. After a settlement of one Medicaid fraud case for MMC PBM overbilling ($13.7 million), in 2024 New Mexico enacted legislation mandating New Mexico MCO PBMs to reimburse New Mexico MMC network pharmacies at a transparent, cost-based reimbursement rate of NADAC and a dispensing fee equivalent to a FFS rate, similar to what is proposed in this bill.

In Nebraska, to address concerns about Nebraska Medicaid's patient access to prescription services, and a settlement of MMC PBM overbilling ($29.3 million), Nebraska enacted legislation to mandate Nebraska MCO PBMs to pay MMC network pharmacies at the Nebraska Medicaid FFS dispensing rate. Additional states such as West Virginia, California, North Dakota, New York, Michigan, Kentucky, Ohio, and Georgia have all invested resources in investigating PBM in their respective states and then mandating transparent reimbursement models.

We hope Maryland moves in a similar direction and we request a favorable report on Senate Bill 438. If we can provide any further information, please contact Michael Paddy at mpaddy@policypartners.net.

2025 SB438 Opp Pharmacy Benefits Managers.pdf
Uploaded by: Deborah Brocato
Position: UNF

SB438
2025

Opposition Statement SB438
Pharmacy Benefits Administration – Maryland Medical Assistance Program
and Pharmacy Benefits Managers
Deborah Brocato, Legislative Consultant
Maryland Right to Life

We oppose SB438.

On behalf of our Board of Directors and members across the state, we respectfully object to HB438. Maryland Right to Life opposes the appropriations from this bill being used to fund the abortion industry and their dispensing of abortion drugs and other services, including funds for abortion drugs dispensed by mail order. The 2022 session of the Maryland General Assembly significantly lowered the standard of care for women and girls with The Abortion Care Access Act by removing the physician requirement for medical and surgical abortions. This law also requires funding of abortion by the taxpayers through Medicaid and private health insurance. Maryland Right to Life requests an amendment excluding abortion purposes from this bill.

D-I-Y Abortions: While the Supreme Court imposed legal abortion on the states in their 1973 decisions Roe v. Wade and Doe v. Bolton, the promise was that abortion would be safe, legal and rare. But in 2016 the Court's decision in *Whole Woman's Health v. Hellerstedt* prioritized "mere access" to abortion facilities and abortion industry profitability over women's health and safety.

The abortion industry itself has referred to the use of abortion pills as "Do-It-Yourself" abortions, claiming that the method is safe and easy. Chemical abortions are 4 (four) times more dangerous than surgical abortions, presenting a high risk of hemorrhaging, infection, and even death. With the widespread distribution of chemical abortion pills, the demand on Emergency Room personnel to deal with abortion complications has increased 250%. The FDA has removed safeguards that prohibited the remote sale of chemical abortion bills leaving pregnant women and girls exposed to the predatory tele-abortion practices of the abortion industry.

In addition to the physical harm of these D-I-Y abortions, consider the psychological harm of chemical abortion. After taking the mifepristone and misoprostol and the contractions begin, the woman or girl is told to expel the baby and placenta into the toilet. This is a very bloody event and the woman and girl will see the remains of their baby in the toilet. If hemorrhaging occurs, the woman or girl will need to get herself to an emergency room.

Maryland is one of only 4 states that forces taxpayer funding of abortion. Maryland taxpayers are forced to subsidize the abortion industry through direct Maryland Medicaid reimbursements to abortion providers, through various state grants and contracts, and through pass-through funding in various state programs. Health insurance carriers are required to provide reproductive health coverage to participate with the Maryland Health Choice program.

SB438
2025

Americans oppose taxpayer funding of abortion. Taxpayers should not be forced to fund elective abortions, which make up the vast majority of abortions committed in Maryland. Polls consistently show that 60% of Americans, pro-life and pro-choice, oppose taxpayer funding of abortion.

Funding restrictions are constitutional. The Supreme Court of the United States has ruled that the government may distinguish between abortion and other procedures in funding decisions -- noting that "*no other procedure involves the purposeful termination of a potential life*", and held that there is "*no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds*."

Women and girls deserve better than the state sponsored D-I-Y abortions, and taxpayers deserve better than to pay for dangerous, life-threatening drugs. Maryland Right to Life requests an amendment excluding abortion purposes from this bill. Without it, we ask for an unfavorable report on SB438.

MMCOA Comments on Senate Bill 438 - Pharmacy Benef
Uploaded by: Joseph Winn
Position: UNF

MMCOA

MARYLAND MCO ASSOCIATION

Senate Bill 438 - Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

UNFAVORABLE
Senate Finance Committee
February 12, 2025

Thank you for the opportunity to submit this testimony for Senate Bill 438 - Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers. The Maryland Managed Care Organization Association (MMCOA), which is comprised of all nine MCOs that serve Medicaid, is committed to ensuring access to the prescription drugs and devices that our members depend on. Maryland's MCOs management of the prescription drug benefit, including costly specialty drugs, provide access to the prescription drugs needed by our members at a lower cost, allowing the State to continue to provide this valuable and necessary service.

While we applaud the sponsor's goal of supporting independent pharmacies, Senate Bill 438 does not attempt to address prescription drug affordability but rather creates a new claims reimbursement methodology for MCOs. Conclusions from the 2023 study on pharmacy reimbursement and committee testimony from last year's legislative session on similar legislation (SB1021) highlighted the significant fiscal impact of approximately $78.3M in in total funds in CY2022. Senate Bill 438 would increase reimbursement to the large national chain pharmacies, potentially undermining the goal of supporting independent and rural pharmacies in the state.

Senate Bill 438 would increase costs for the state and limit the MCO's ability to work with their PBMs on providing affordable access to prescription drugs in the HealthChoice program. We respectfully urge an unfavorable report on Senate Bill 438.

Please contact Joe Winn, Executive Director of MMCOA, with any questions regarding this testimony at jwinn@marylandmco.org.

SB 438 - MDH - FIN - LOO.pdf
Uploaded by: Meghan Lynch
Position: UNF

Maryland
DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 12, 2025

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 438 – Pharmacy Benefits Administration – Maryland Medical Assistance Program and Pharmacy Benefits Managers – Letter of Opposition

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of opposition for Senate Bill (SB) 438 – *Pharmacy Benefits Administration – Maryland Medical Assistance Program and Pharmacy Benefits Managers*. SB 438 requires the Maryland Medical Assistance Program (Medical Assistance) and Managed Care Organizations (MCOs) that use a Pharmacy Benefits Manager (PBM) to follow certain guidelines. This legislation applies to all pharmacies except (1) those that are owned by, or under the same corporate affiliation, as a PBM, or (2) mail order pharmacies.

SB 438 will require the Medical Assistance Program to set the minimum reimbursement rate for drug products with a generic equivalent to be equal to the National Average Drug Acquisition Cost (NADAC) of the generic product plus the Department's Fee-for-Service (FFS) professional dispensing fee. This bill also creates a reimbursement requirement for brand name drug products. If a prescriber requires a specific brand name drug, the reimbursement level must be based on the NADAC amount of the product plus the FFS dispensing fee.

The Department notes that any change to the Medical Assistance Program reimbursement structure will have a fiscal impact. As drafted, SB 438 will have a fiscal impact of $68.4 million in total funds ($34.2 million federal funds, $34.2 million state general funds) in fiscal year (FY) 2026 alone.[1] As part of a 2023 study for the General Assembly, the Department modeled the fiscal impact of increasing managed care organizations' dispensing to different rates ranging from $1 to $11, which would have a fiscal impact ranging from $11.19 million total funds to $123.04 million total funds.[2]

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[1] Based on an effective date of April 1, 2025, as this bill is an emergency measure, the impact for the remaining three months of State Fiscal Year 2025 would be $20.0 million. FY26: $81.5 million; FY27 will be $83.1 million; FY28 $84.8 million; FY29 $86.5 million; FY30 $88.2 million.
[2] See p. 13, https://health.maryland.gov/mmcp/Documents/JCRs/2023/MCOpharmacyclaimsJCRfinal10-23.pdf.

Further, if enacted, SB 438 will reverse the General Assembly's prior policy direction[3] to have MCOs administer the Medical Assistance Program pharmacy benefit to ensure access to prescription drugs for Marylanders and to manage skyrocketing drug costs. Following regulatory changes in 2016 under the Affordable Care Act, the Medical Assistance FFS program began reimbursing for drugs using actual acquisition costs (AAC). Maryland's FFS pharmacy reimbursement utilizes NADAC as a benchmark for determining AAC. Through this approach, the Medical Assistance Program reimbursement rate is the NADAC rate or the provider's Usual and Customary charges, whichever is lower.

The Department further notes that there have not been substantial reductions to the Medical Assistance Program's pharmacy network. According to a report provided by the Board of Pharmacy, in calendar year (CY) 2021, 20 pharmacies opened and enrolled in the Medical Assistance Program. In contrast, nine pharmacies closed during this time. In CY 2022, 20 pharmacies opened and enrolled in the Medical Assistance Program and six closed.[4] The Department notes that none of these closures were in rural areas. Additionally, the federal government has established access standards. The HealthChoice program has met these requirements.

Finally, the Department notes that dispensing fees paid for by MCOs align with those paid by commercial payers. Historically, commercial dispensing fees are less than $1 per pharmacy claim.[5] In CY 2021, the average commercial dispensing fee was less than $2 per claim.[6] In CY 2021, the average dispensing fee paid for by MCOs was $0.67 and $0.59 in CY 2022.

Additionally, SB 438 exempts pharmacies owned, or under the same corporate affiliation, as a PBM and mail order pharmacies from the bill's requirements, which may invite litigation.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov or (410) 260-3190.

Sincerely,

Laura Herrera Scott, M.D., M.P.H.
Secretary

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[3] HB 1290 (2015); report available at:
https://mmcp.health.maryland.gov/Documents/JCRs/MCOpharmacynetworksJCRfinal12-15.pdf

[4] This data does not include pharmacies that were pre-existing and either opened or closed during CY 2021 and CY 2022 due to new ownership or the issuance of a new Board of Pharmacy license.

[5] http://www.insidepatientcare.com/issues/2016/march-2016-vol-4-no-3/404-cms-introduces-professional-dispensing-fees-for-pharmacies

[6] https://www.pcmanet.org/mandating-pharmacy-reimbursement-increase-spending/#:~:text=The%20average%20dispensing%20fee%20in,the%20state's%20Medicaid%20FFS%20rate

SB 438 Letter of Information DBM.docx.pdf
Uploaded by: Dana Phillips
Position: INFO

WES MOORE
Governor

ARUNA MILLER
Lieutenant Governor

Maryland
DEPARTMENT OF BUDGET AND MANAGEMENT

HELENE GRADY
Secretary

MARC L. NICOLE
Deputy Secretary

SENATE BILL 438 Pharmacy Benefits Administration - Maryland Medical Assistance Program and Pharmacy Benefits Managers

STATEMENT OF INFORMATION

DATE: February 12, 2025

COMMITTEE: Finance

SUMMARY OF BILL: Senate Bill 438 seeks to change the reimbursement level to retail pharmacies from average wholesale price (AWP)/maximum allowable cost (MAC) pricing to the National Average Drug Acquisition Cost (NADAC) plus a dispensing fee determined in accordance with the most recent in-state cost-of-dispensing survey.

EXPLANATION: The Secretary of Budget and Management (DBM) has broad authority for the administration of the State Employee and Retiree Health and Welfare Benefits Program (the Program) and DBM's Office of Personnel Services and Benefits, Employee Benefits Division (EBD), administers the medical and prescription drug benefits coverage for State employees, pre-Medicare retirees, and their dependents.

A change from AWP/MAC to NADAC would be a major shift in the reimbursement level for the Program, requiring a full analysis.

The Program is impacted by the NADAC reimbursement floor plus dispensing fee. The Program has negotiated a dispensing fee of $0.35 per script for the active and Pre-Medicare retiree populations respectively. In the calendar year 2024, our members filled nearly 2.1 million prescriptions by 165k+ active employees, Pre-Medicare retirees, and their dependents.

Provisions of Senate Bill 438 include an exception to exclude; (I) a pharmacy owned by or under the same corporate affiliation, as a pharmacy benefit manager; or (II) a mail order pharmacy. However, because the Program transitioned to a new Pharmacy Benefit Manager (PBM) as of January 1, 2025, we would expect nearly 100% of retail prescriptions filled by active employees and their dependents to be subject to Senate Bill 438.

If enacted, provisions outlined above are expected to increase the Program's active employee cost by approximately $40 million in the first year. Future years would be increased by expected trends. Rebate impact is not included in this estimate.

Given the increased cost to the State's Program, Senate Bill 438 would require additional funding and increased employee/retiree contributions.

For additional information, contact Dana Phillips at
(410) 260-6068 or dana.phillips@maryland.gov