HB 813

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 813 (Delegate S. Johnson, *et al.*)
Health and Government Operations Finance

Maryland Insurance Administration and Maryland Department of Health - Workgroup to Study Pharmacy Benefits Managers

This bill requires the Maryland Insurance Administration (MIA) and the Maryland Department of Health (MDH) to convene a workgroup of interested stakeholders and third-party experts in the field of drug pricing in Medicaid. The workgroup must review (1) reimbursement for pharmacists; (2) coverage requirements for specialty drugs; and (3) exemptions for pharmacy benefits management regulation under the Employee Retirement Income Security Act of 1974 (ERISA). MIA and MDH must submit an interim report on the workgroup's findings and recommendations to specified committees of the General Assembly by December 31, 2025, and a final report by December 31, 2026. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: No effect in FY 2025. Medicaid expenditures (50% general funds, 50% federal funds) increase by $51,300 in FY 2026 and $21,100 in FY 2027 for personnel to support the workgroup, as discussed below. Federal fund revenues increase correspondingly. MIA can provide support to the workgroup using existing resources.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
FF Revenue	$25,600	$10,600	$0	$0	$0
GF/FF Exp.	$51,300	$21,100	$0	$0	$0
Net Effect	($25,600)	($10,600)	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: In reviewing reimbursement for pharmacists, the workgroup must consider:

- existing Medicaid requirements for pharmacy benefits managers (PBMs) and managed care organizations related to dispensing fee reimbursement, PBM fees charged to pharmacies and Medicaid, transparency in pricing and reimbursement data, specialty drug designations, and appeals processes;
- the operation of Medicaid pharmacy benefits services in other states, including Ohio, Kentucky, New York, California, and West Virginia;
- measures that offset MDH's costs to fund Medicaid and adopt National Average Drug Acquisition Cost plus the fee-for-service professional dispensing, as specified; and
- strategies for adopting pharmacy reimbursement parity and drug pricing transparency.

With respect to coverage requirements for specialty drugs, the workgroup must review which drugs are considered specialty for purposes of formularies across carriers and PBMs and what these drugs have in common for purposes of developing a new definition for "specialty drug."

As part of reviewing ERISA exemptions for pharmacy benefits management regulation, the workgroup must consider (1) the scope of *Rutledge v. Pharmaceutical Care Management Association* and subsequent case law and federal guidance; (2) how other states have responded to the *Rutledge* decision; and (3) what, if any, other State laws should be amended.

Current Law:

Specialty Drugs

A "specialty drug" means a prescription drug that (1) is prescribed for an individual with a complex, chronic, or rare medical condition; (2) costs $600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires either a difficult or unusual process of delivering the drug to the patient or enhanced patient education, management, or support before or after administration of the drug. A specialty drug does not include a prescription drug prescribed to treat diabetes, HIV, or AIDS; it does include a prescription drug prescribed to treat multiple sclerosis, hepatitis C, rheumatoid arthritis, cystic fibrosis, hemophilia, or multiple myeloma.

Employee Retirement Income Security Act

ERISA contains a preemption clause stating that the Act "shall supersede any and all state laws insofar as they relate to any employee benefit plan." These benefits include health care. State reforms have often come into conflict with ERISA when they relate, directly or indirectly, to employee benefits.

In 2020, the Supreme Court ruled in *Rutledge v. Pharmaceutical Care Management Association*, 592 U.S. 80 (2020) that ERISA did not preempt an Arkansas law requiring PBMs to reimburse pharmacies at least their acquisition costs for prescription drugs, thus allowing states to regulate PBMs and drug reimbursement. In its ruling, the Supreme Court held that "ERISA does not preempt state rate regulations that merely increase costs or alter incentives for ERISA plans without forcing plans to adopt any particular scheme of substantive coverage."

State Fiscal Effect: Medicaid expenditures increase by $51,292 (50% general funds, 50% federal funds) in fiscal 2026, which assumes a 30-day start up delay from the bill's June 1, 2025 effective date. Federal fund revenues increase accordingly. This estimate reflects the cost of MDH hiring one part-time (50%) health policy analyst to staff the workgroup and prepare the required reports. It includes a salary, fringe benefits, and one-time start-up costs.

	FY 2026	**FY 2027**
Contractual Position	0.5	-
Salary and Fringe Benefits	$44,199	$20,855
Operating Expenses	7,093	279
Total Medicaid Expenditures	**$51,292**	**$21,134**

Fiscal 2027 expenditures reflect a partial year salary with an annual increase and employee turnover, annual increases in operating expenses, and elimination of the contractual position on December 31, 2026, when the final report is due.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 438 (Senator Lam) - Finance.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2025
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