

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 773

(Senator Hershey)

Finance

Health and Government Operations

Health Benefit Plans – Calculation of Cost Sharing Contribution – Requirements

This bill requires an administrator, a carrier, and certain pharmacy benefits managers (PBMs), when calculating an enrollee’s or beneficiary’s contribution to an applicable cost sharing requirement, to include any payments made by, or on behalf of, the enrollee or beneficiary, except as specified. An administrator, carrier, or PBM may not directly or indirectly set, alter, implement, or condition the terms of health benefit plan coverage based on information about the availability or amount of financial or product assistance available for a prescription drug or biological product. A specified annual limitation on cost sharing must apply to all health care services covered under a health benefit plan offered or issued by an administrator or a carrier in the State. Additionally, a third party that provides financial assistance on behalf of an enrollee toward an applicable cost sharing (or out-of-pocket) expense for a covered prescription drug must comply with specified requirements. **The bill takes effect January 1, 2026, and applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after that date.**

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2026 only from the \$125 rate and form filing fee. Any additional workload for MIA can be absorbed with existing resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program, as discussed below.

Local Effect: To the extent the bill’s requirements increase the cost of health insurance, expenditures for local governments that purchase fully insured medical plans may increase. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Administrator” means a person that, to the extent that the person is acting for an insurer or plan sponsor, has control over or custody of premiums, contributions, or any other money for any period of time or discretionary authority over the adjustment, payment, or settlement of benefit claims under a plan or over the investment of a plan’s assets. “Administrator” excludes specified persons, including a person that administers only plans that are subject to the federal Employee Retirement Income Security Act and that do not provide benefits through insurance, unless any of the plans administered is a multiple employer welfare arrangement.

“Carrier” means an insurer, a nonprofit health service plan, a health maintenance organization, and any other person that provides health benefit plans subject to regulation by the State.

“Cost sharing” means any copayment, coinsurance, deductible, or other similar charge required of an enrollee for a health care service covered by a health benefit plan, including a prescription drug, and paid by or on behalf of the enrollee.

“Health benefit plan” means a policy, contract, certification, or agreement offered or issued by an administrator or a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

Cost Sharing Requirements – Administrators and Carriers

The annual limitation on cost sharing for all nongrandfathered health plans under the federal Patient Protection and Affordable Care Act (ACA) must apply to all health care services covered under a health benefit plan offered or issued by an administrator or a carrier in the State. (For 2025, the maximum annual limitation on cost sharing is \$9,200 for individual coverage and \$18,400 for family coverage).

When calculating an enrollee’s contribution to an applicable cost sharing requirement, an administrator or carrier must include any payments made by, or on behalf of, the enrollee. This requirement does not apply with respect to the deductible requirement of an enrollee who is covered under a health savings account-eligible high-deductible health plan (HDHP).

An administrator or carrier may not directly or indirectly set, alter, implement, or condition the terms of health benefit plan coverage, including the benefit design, based in whole or in part on information about the availability or amount of financial or product assistance available for a prescription drug or biological product.

The Commissioner may adopt regulations to implement these provisions.

Cost Sharing Requirements – Pharmacy Benefits Managers

When calculating a beneficiary's contribution to an applicable cost sharing requirement, a PBM that provides pharmacy benefits management services on behalf of a carrier must include cost sharing amounts paid by, or on behalf of, the beneficiary. This requirement does not apply with respect to the deductible requirement of an enrollee who is covered under a health savings account-eligible HDHP.

A PBM may not directly or indirectly set, alter, implement, or condition the terms of health benefit plan coverage, including the benefit design, based in whole or in part on information about the availability or amount of financial or product assistance available for a prescription drug or biological product.

Financial Assistance – Third Parties

A third party that pays financial assistance in any amount, or portion of the amount, of any applicable cost-sharing or other out-of-pocket expense on behalf of an enrollee for a covered prescription drug must notify the enrollee within seven days of their acceptance of the financial assistance of the total amount of assistance available and the duration for which it is available. A third party is prohibited from conditioning this assistance on enrollment in a specific health plan or type of health plan, except as authorized under federal law.

Current Law:

Cost Sharing – Patient Protection and Affordable Care Act

Under the ACA, all nongrandfathered group health plans must ensure that any annual cost sharing imposed under the plan does not exceed specified limitations. For plan or policy years beginning in 2025, the maximum annual limitation on cost sharing is \$9,200 for individual coverage and \$18,400 for family coverage. The out-of-pocket maximum is set annually by the U.S. Department of Health and Human Services based on a formula that calculates how much the average premium for employer-sponsored health insurance in the preceding year exceeds the average 2014 premium for employer-sponsored health insurance.

Pharmacy Benefits Managers

A PBM is a business that administers and manages prescription drug benefit plans. A PBM must register with MIA prior to providing pharmacy benefits management services. A PBM that provides pharmacy benefits management services on behalf of a carrier may not require that a beneficiary use a specific pharmacy or entity to fill a prescription if the PBM (or a corporate affiliate) has an ownership interest in the pharmacy or entity or vice versa. A PBM may require a beneficiary to use a specific pharmacy or entity for a specialty drug.

A PBM that provides pharmacy benefits management services on behalf of a carrier may not reimburse a pharmacy or pharmacist for a pharmaceutical product or pharmacist service in an amount less than the PBM reimburses itself or an affiliate for providing the same product or service. This prohibition does not apply to reimbursement for specialty drugs, mail order drugs, or to a chain pharmacy with more than 15 stores or a pharmacist who is an employee of the chain pharmacy.

State Expenditures: The Department of Budget and Management (DBM) advises that the State Employee and Retiree Health and Welfare Benefits Program does not employ the cost sharing methodologies that the bill restricts; thus, the bill has no impact on the program at this time. However, DBM has previously advised for similar legislation in a prior legislative session that restrictions on cost sharing methodologies could limit the program's future flexibility to implement cost-saving measures related to cost sharing for health services and prescription drugs.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 595 and HB 879 of 2024.

Designated Cross File: None.

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

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