Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 837 (Senators Ready and Lam)
Finance

Maryland Medical Assistance Program and Health Insurance - Coverage and Utilization Review - Drugs Reviewed by the Prescription Drug Affordability Board

This bill prohibits a Medicaid managed care organization (MCO) from requiring a prior authorization for, or limiting, restricting, or excluding coverage of, a prescription drug on the MCO's formulary if the prescription drug has been reviewed by the Prescription Drug Affordability Board (PDAB) with specified outcomes. Certain insurers, nonprofit health service plans, and health maintenance organizations (collectively carriers) are similarly prohibited from imposing a step therapy or fail-first protocol for a prescription drug or from limiting, restricting, or excluding coverage of a prescription drug on the carrier's formulary if the prescription drug has been reviewed by PDAB with the same specified outcomes. **The bill's provisions regarding MCOs take effect July 1, 2026; provisions governing carriers take effect January 1, 2027, and apply 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 2027 only from the $125 rate and form filing fee. Medicaid expenditures increase by an indeterminate but significant amount (64.68% federal funds, 35.32% general funds) beginning in FY 2027. Federal fund revenues increase accordingly. Expenditures for the State Employee and Retiree Health and Welfare Benefits Program increase by an indeterminate but significant amount beginning in FY 2027.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's prohibitions on prior authorization (for MCOs), step therapy or fail-first protocols (for carriers), and limiting, restricting, or excluding coverage of a prescription drug on a formulary (for MCOs and carriers) apply if the prescription drug has been reviewed by PDAB and the board:

- has not made a determination that the prescription drug has led or will lead to an affordability challenge;
- has made a policy recommendation relating to the drug to the General Assembly; or
- has set an upper payment limit (UPL) for the drug.

Current Law:

Prescription Drug Affordability Board

Established by Chapter 692 of 2019, PDAB is required to study the entire pharmaceutical distribution and payment system in Maryland and the policy options being used in other states and countries to lower the list price of pharmaceuticals. This includes setting UPLs, using reverse auction marketplaces, and implementing a bulk purchasing process.

PDAB's cost review study process is a tool for the board to study specific drugs to determine whether use of the drug that is consistent with the labeling approved by the U.S. Food and Drug Administration (FDA) or standard medical practice has or will lead to affordability challenges for the State health care system or high out-of-pocket costs for patients. If PDAB finds that use of a drug has created an affordability challenge, it may develop and recommend policy actions and set a UPL.

Six drugs have been referred to PDAB for review (Dupixent, Farxiga, Jardiance, Ozempic, Skyrizi, and Trulicity). PDAB has completed cost reviews on four drugs (Farxiga, Jardiance, Ozempic, and Trulicity). In 2025, PDAB made preliminary determinations that these drugs have created affordability challenges to the State health care system. PDAB recommended setting UPLs for Farxiga and Jardiance. As of February 2026, PDAB is continuing to conduct a cost review for Dupixent and Skyrizi.

Step Therapy/Fail-first Protocols

"Step therapy or fail-first protocol" means a protocol established by a carrier that requires a prescription drug or sequence of prescription drugs to be used by an insured or enrollee before a prescription drug ordered by a prescriber is covered.

A carrier may not impose a step therapy or fail-first protocol if the step therapy drug has not been approved by FDA for the medical condition being treated (*i.e.*, off-label use) or a prescriber provides supporting medical information to the carrier or pharmacy benefits manager (PBM) that a prescription drug covered by the carrier or PBM (1) was ordered for the insured or enrollee within the past 180 days and (2) based on the professional judgment of the prescriber, was effective in treating the insured or enrollee.

A carrier is also prohibited from imposing a step therapy or fail-first protocol if the prescription drug is used to treat the insured's or enrollee's stage four advanced metastatic cancer and use of the prescription drug is consistent with specified indications and supported by peer-reviewed medical literature.

State Fiscal Effect:

Medicaid

The Maryland Department of Health (MDH) anticipates that the bill increases Medicaid expenditures by an indeterminate but significant amount (64.68% federal funds, 35.32% general funds) beginning in fiscal 2027, likely in the tens of millions of dollars.

MDH notes that many of the drugs referred to PDAB are high cost and Medicaid MCOs currently apply utilization management tools to several of the medications. Removing prior authorization on these drugs is expected to increase utilization and, thus, increase costs. As PDAB reviews additional drugs year over year, the fiscal impact of the bill has the potential to grow exponentially.

As noted above, six drugs have been referred to PDAB for review (Dupixent, Farxiga, Jardiance, Ozempic, Skyrizi, and Trulicity). In calendar 2024, 31,889 Medicaid participants were prescribed these drugs a total of 191,756 times at a total cost of $215.6 million. All of these drugs had utilization management requirements from at least two MCOs, and the majority of MCOs applied utilization management tools to Jardiance and Trulicity. MDH further advises that some of these drugs also have off-label uses, making appropriate utilization management critical for controlling costs. For example, Trulicity can be used off-label for weight loss, while Skyrizi is used off-label to treat inflammatory skin conditions.

State Employee and Retiree Health and Welfare Benefits Program

The State Employee and Retiree Health and Welfare Benefits Program currently covers all six of the drugs known to have been reviewed or set to be reviewed by PDAB (Dupixent, Farxiga, Jardiance, Ozempic, Skyrizi, and Trulicity). Four of the six drugs (Dupixent, Ozempic, Skyrizi, and Trulicity) are currently subject to prior authorization rules. The

PBM for the program estimates that removal of prior authorization for these four drugs could increase costs by $49.7 million to $65.0 million annually. This does not reflect the potential impact of future drugs that may be subject to PDAB review.

The Department of Budget and Management notes that removal of prior authorization for Ozempic alone results in significant cost increases. Ozempic is approved by FDA for Type 2 Diabetes, kidney disease, and to reduce major cardiovascular events. Removing prior authorization from the drug allows it to be used off-label for weight loss (as the program does not currently cover weight loss drugs) and results in a significant increase in utilization at an estimated cost of $36.1 million annually.

Additional Comments: The Department of Legislative Services notes that, to the extent that access to these drugs increases under the bill and reduces obesity rates among Medicaid and State Employee and Retiree Health and Welfare Benefits program enrollees, there may be long-term reductions in spending on chronic diseases associated with obesity. This estimate does not reflect such savings as they cannot be reliably projected,

Additional Information

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

Designated Cross File: HB 1440 (Delegate Woorman, *et al.*) - Health.

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

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