

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 544 (Delegate Kipke, *et al.*)
Health and Government Operations

Pharmacy Benefits - Processing and Adjudication of Claims - Restrictions on Fees

This bill prohibits a pharmacy benefits manager (PBM) or a purchaser from directly or indirectly charging a contracted pharmacy, or holding a contracted pharmacy responsible for, a fee related to the adjudication of a claim that is not (1) specifically enumerated by the PBM or purchaser at the time of claim processing or (2) reported on the initial remittance advice of an adjudicated claim. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) can enforce the bill with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A PBM is a business that administers and manages prescription drug benefit plans for purchasers. A PBM must register with MIA prior to providing pharmacy benefits management services. The Insurance Commissioner is authorized to examine the affairs, transactions, accounts, and records of a registered PBM at the PBM's expense. A PBM is prohibited from shipping, mailing, or delivering prescription drugs or devices to a person in the State through a nonresident pharmacy unless the nonresident pharmacy holds a nonresident pharmacy permit from the State Board of Pharmacy. A core function of a PBM is adjudication of claims.

A “contracted pharmacy” means a pharmacy that participates in the network of a PBM through a contract with the PBM or a pharmacy services administration organization or a group purchasing organization.

If the Commissioner determines that a PBM has violated any provision of Title 15, Subtitle 16 of the Insurance Article, the Commissioner may issue an order that requires the PBM to (1) cease and desist; (2) take specific affirmative action to correct the violation; or (3) make restitution of money, property, or other assets to a person that has suffered financial injury from the violation. In addition to any other enforcement action taken, the Commissioner may impose a civil penalty of up to \$10,000 for each violation.

Background: Louisiana passed legislation in 2016 that prohibits a health insurance carrier or PBM from directly or indirectly charging or holding a pharmacist or pharmacy responsible for any fee related to a claim (1) that is not apparent at the time of claim processing; (2) that is not reported on the remittance advice of an adjudicated claim; (3) after the initial claim is adjudicated; or (4) in order to participate in a specified provider network.

Small Business Effect: Small business pharmacies benefit from additional protections under the bill.

Additional Information

Prior Introductions: HB 1376 of 2018 received a hearing in the House Health and Government Operations Committee but was withdrawn. Its cross file, SB 1077, was referred to the Senate Finance Committee but was withdrawn. HB 1162 of 2017 received a hearing in the House Health and Government Operations Committee but was withdrawn.

Cross File: None.

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

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