

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 170 (Delegate K. Young)
Health and Government Operations

Cancer Drugs – Physician Dispensing and Coverage

This bill authorizes a physician with a valid dispensing permit to personally dispense to a patient or a patient of the physician’s practice, by mail or other commercial method (1) a starter dosage of a cancer drug or device or (2) an initial or refill prescription of a cancer drug. An insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) must allow an insured or enrollee to obtain a covered specialty drug that is a “cancer drug” from a dispensing physician. A pharmacy benefits manager (PBM) must allow a beneficiary to obtain a cancer drug from a dispensing physician. **The bill takes effect January 1, 2022, 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 in FY 2022 from the \$125 rate and form filing fee. Contractual assistance may be required to review forms in FY 2022 only. Any impact on Medicaid is indeterminate, as discussed below. No meaningful impact on the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: Any impact on prescription drug expenditures for local jurisdictions is indeterminate, as discussed below. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Current Law: Under the Maryland Pharmacy Act, a person must be licensed by the State Board of Pharmacy in order to practice pharmacy in the State, which includes the dispensing of prescription drugs. “Dispensing” means the procedure that results in the receipt of a prescription or nonprescription drug or device by a patient or the patient’s agent and that entails (1) the interpretation of an authorized prescriber’s prescription for a drug or device; (2) the selection and labeling of the drug or device prescribed pursuant to that prescription; and (3) measuring and packaging of the prescribed drug or device in accordance with State and federal laws.

This requirement does not prohibit specified individuals from personally preparing and dispensing prescriptions under specified circumstances, including a licensed physician who (1) has applied to the State Board of Physicians (MBP); (2) demonstrated to the satisfaction of MBP that the dispensing of prescription drugs or devices by the physician is in the public interest; (3) has received a written permit from MBP to dispense prescription drugs or devices, with the exception of starter dosages or samples without charge; and (4) posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed. The physician also must:

- comply with dispensing and labeling requirements;
- record the dispensing of the prescription drug or device on the patient’s chart;
- allow the Office of Controlled Substances Administration to enter and inspect the physician’s office at all reasonable hours;
- provide the patient with a written prescription and maintain prescription files;
- not direct patients to a single pharmacist or pharmacy;
- not receive remuneration for referring patients to a pharmacist or pharmacy;
- comply with the child resistant packaging requirements;
- comply with drug recalls;
- maintain biennial inventories and comply with any other federal and State recordkeeping requirements relating to controlled dangerous substances;
- purchase prescription drugs from a pharmacy or wholesale distributor who holds a permit issued by the State Board of Pharmacy;
- report annually to MBP whether the physician has personally prepared and dispensed prescription drugs within the previous year; and
- complete 10 hours of continuing medical education over a five-year period relating to the preparing and dispensing of prescription drugs.

Generally, a carrier may require a covered specialty drug to be obtained through a designated pharmacy or other authorized source or a pharmacy participating in the carrier's network, if the carrier determines that pharmacy meets the carrier's performance standards and accepts the carrier's network reimbursement.

“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 a difficult or unusual process of delivery to the patient in the preparation, handling, storage, inventory, or distribution of the drug or requires enhanced patient education, management, or support, beyond those required for traditional dispensing before or after administration of the drug.

State Fiscal Effect: Although the bill does not specifically apply to Medicaid, it requires a PBM to allow a beneficiary to obtain a cancer drug from a dispensing physician. All nine Medicaid managed care organizations use PBMs. As the bill does not specify reimbursement for dispensing physicians, there is insufficient information to determine whether Medicaid prescription drug expenditures increase, decrease, or remain the same. To the extent expenditures increase or decrease, federal matching fund revenues are impacted correspondingly.

Local Expenditures: As noted above, the bill does not specify reimbursement for dispensing physicians. Thus, any impact on prescription drug costs for local governments that purchase fully insured plans and/or utilize PBMs is indeterminate.

Small Business Effect: Physicians with a valid dispensing permit may dispense cancer drugs to patients as specified.

Additional Information

Prior Introductions: None.

Designated 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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