

# HOUSE BILL 761

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CF SB 874

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By: ~~Delegate Hammen~~ Delegates Hammen, Holmes, Bromwell, Costa, Cullison, Donoghue, Elliott, Hubbard, Kach, A. Kelly, Kipke, Krebs, McDonough, Morhaim, Murphy, Nathan-Pulliam, Oaks, Pena-Melnyk, Pendergrass, Ready, Reznik, and V. Turner

Introduced and read first time: February 3, 2014

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance – Specialty Drugs**

3 FOR the purpose of prohibiting certain insurers, nonprofit health service plans, and  
4 health maintenance organizations from imposing a copayment or coinsurance  
5 requirement on a covered specialty drug that exceeds a certain dollar amount;  
6 providing for an annual increase to the copayment or coinsurance requirement  
7 limit; providing that, under certain circumstances, certain provisions of law or  
8 certain regulations do not preclude certain insurers, nonprofit health service  
9 plans, and health maintenance organizations from requiring a covered specialty  
10 drug to be obtained through a certain source or a pharmacy participating in the  
11 provider network of the insurer, nonprofit health service plan, or health  
12 maintenance organization under certain conditions; authorizing a pharmacy  
13 registered under a certain provision of federal law to apply to be a designated  
14 pharmacy for a certain purpose, under certain conditions; prohibiting an  
15 insurer, nonprofit health service plan, or health maintenance organization from  
16 unreasonably withholding certain approval; authorizing certain insurers,  
17 nonprofit health service plans, and health maintenance organizations to provide  
18 coverage for specialty drugs through a managed care system; providing that a  
19 certain determination is considered a coverage decision under certain provisions  
20 of law; authorizing the Maryland Insurance Commissioner to seek advice from  
21 certain persons relating to certain complaints filed with the Commissioner;  
22 requiring the expenses for the advice to be paid for as provided under certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 provisions of law; defining certain terms; making the provisions of this Act  
2 applicable to health maintenance organizations; providing for the application of  
3 this Act; and generally relating to specialty drugs.

4 BY adding to  
5 Article – Insurance  
6 Section 15–847  
7 Annotated Code of Maryland  
8 (2011 Replacement Volume and 2013 Supplement)

9 BY adding to  
10 Article – Health – General  
11 Section 19–706(oooo)  
12 Annotated Code of Maryland  
13 (2009 Replacement Volume and 2013 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Insurance**

17 **15–847.**

18 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
19 **MEANINGS INDICATED.**

20 **(2) (I) “COMPLEX OR CHRONIC MEDICAL CONDITION” MEANS**  
21 **A PHYSICAL, BEHAVIORAL, OR DEVELOPMENTAL CONDITION THAT:**

- 22 **1. MAY HAVE NO KNOWN CURE;**  
23 **2. IS PROGRESSIVE; OR**  
24 **3. CAN BE DEBILITATING OR FATAL IF LEFT**  
25 **UNTREATED OR UNDERTREATED.**

26 **(II) “COMPLEX OR CHRONIC MEDICAL CONDITION”**  
27 **INCLUDES:**

- 28 **1. MULTIPLE SCLEROSIS;**  
29 **2. HEPATITIS C; AND**  
30 **3. RHEUMATOID ARTHRITIS.**

1           **(3) “MANAGED CARE SYSTEM” MEANS A SYSTEM OF COST**  
2 **CONTAINMENT METHODS THAT AN INSURER, A NONPROFIT HEALTH SERVICE**  
3 **PLAN, OR A HEALTH MAINTENANCE ORGANIZATION USES TO REVIEW AND**  
4 **PREAUTHORIZE DRUGS PRESCRIBED BY A HEALTH CARE PROVIDER FOR A**  
5 **COVERED INDIVIDUAL TO CONTROL UTILIZATION, QUALITY, AND CLAIMS.**

6           **(4) (I) “RARE MEDICAL CONDITION” MEANS A DISEASE OR**  
7 **CONDITION THAT AFFECTS FEWER THAN:**

8                           **1. 200,000 INDIVIDUALS IN THE UNITED STATES; OR**  
9                           **2. APPROXIMATELY 1 IN 1,500 INDIVIDUALS**  
10 **WORLDWIDE.**

11           **(II) “RARE MEDICAL CONDITION” INCLUDES:**

12                           **1. CYSTIC FIBROSIS;**

13                           **2. HEMOPHILIA; AND**

14                           **3. MULTIPLE MYELOMA.**

15           **(5) “SPECIALTY DRUG” MEANS A PRESCRIPTION DRUG THAT:**

16                           **(I) IS PRESCRIBED FOR AN INDIVIDUAL WITH A COMPLEX**  
17 **OR CHRONIC MEDICAL CONDITION OR A RARE MEDICAL CONDITION;**

18                           **(II) COSTS \$600 OR MORE FOR UP TO A 30-DAY SUPPLY;**

19                           **(III) IS NOT TYPICALLY STOCKED AT RETAIL PHARMACIES;**  
20 **AND**

21                           **(IV) 1. REQUIRES A DIFFICULT OR UNUSUAL PROCESS OF**  
22 **DELIVERY TO THE PATIENT IN THE PREPARATION, HANDLING, STORAGE,**  
23 **INVENTORY, OR DISTRIBUTION OF THE DRUG; OR**

24                                   **2. REQUIRES ENHANCED PATIENT EDUCATION,**  
25 **MANAGEMENT, OR SUPPORT, BEYOND THOSE REQUIRED FOR TRADITIONAL**  
26 **DISPENSING, BEFORE OR AFTER ADMINISTRATION OF THE DRUG.**

27           **(B) THIS SECTION APPLIES TO:**

1           **(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT**  
2 **PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER HEALTH INSURANCE**  
3 **POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND**

4           **(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE**  
5 **COVERAGE FOR PRESCRIPTION DRUGS UNDER CONTRACTS THAT ARE ISSUED**  
6 **OR DELIVERED IN THE STATE.**

7           **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN**  
8 **ENTITY SUBJECT TO THIS SECTION MAY NOT IMPOSE A COPAYMENT OR**  
9 **COINSURANCE REQUIREMENT ON A COVERED SPECIALTY DRUG THAT EXCEEDS**  
10 **\$150 FOR UP TO A 30-DAY SUPPLY OF THE SPECIALTY DRUG.**

11           **(2) ON JULY 1 OF EACH YEAR, THE LIMIT ON THE COPAYMENT OR**  
12 **COINSURANCE REQUIREMENT ON A COVERED SPECIALTY DRUG SHALL**  
13 **INCREASE BY A PERCENTAGE EQUAL TO THE PERCENTAGE CHANGE FROM THE**  
14 **PRECEDING YEAR IN THE MEDICAL CARE COMPONENT OF THE**  
15 **MARCH CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS,**  
16 **WASHINGTON-BALTIMORE, FROM THE U.S. DEPARTMENT OF LABOR, BUREAU**  
17 **OF LABOR STATISTICS.**

18           **(D) SUBJECT TO § 15-805 OF THIS SUBTITLE AND NOTWITHSTANDING §**  
19 **15-806 OF THIS SUBTITLE, NOTHING IN THIS ARTICLE OR REGULATIONS**  
20 **ADOPTED UNDER THIS ARTICLE PRECLUDES AN ENTITY SUBJECT TO THIS**  
21 **SECTION FROM REQUIRING A COVERED SPECIALTY DRUG TO BE OBTAINED**  
22 **THROUGH:**

23           **(1) A DESIGNATED PHARMACY OR OTHER SOURCE AUTHORIZED**  
24 **UNDER THE HEALTH OCCUPATIONS ARTICLE TO DISPENSE OR ADMINISTER**  
25 **PRESCRIPTION DRUGS; OR**

26           **(2) A PHARMACY PARTICIPATING IN THE ENTITY'S PROVIDER**  
27 **NETWORK, IF THE ENTITY DETERMINES THAT THE PHARMACY:**

28                   **(I) MEETS THE ENTITY'S PERFORMANCE STANDARDS; AND**

29                   **(II) ACCEPTS THE ENTITY'S NETWORK REIMBURSEMENT**  
30 **RATES.**

31           **(E) (1) A PHARMACY REGISTERED UNDER § 340B OF THE FEDERAL**  
32 **PUBLIC HEALTH SERVICES ACT MAY APPLY TO AN ENTITY SUBJECT TO THIS**  
33 **SECTION TO BE A DESIGNATED PHARMACY UNDER SUBSECTION (D)(1) OF THIS**  
34 **SECTION FOR THE PURPOSE OF ENABLING THE PHARMACY'S PATIENTS WITH**

1 HIV, AIDS, OR HEPATITIS C TO RECEIVE THE COPAYMENT OR COINSURANCE  
2 MAXIMUM PROVIDED FOR IN SUBSECTION (C) OF THIS SECTION IF:

3 (I) THE PHARMACY IS OWNED BY A FEDERALLY QUALIFIED  
4 HEALTH CENTER, AS DEFINED IN 42 U.S.C. § 254B;

5 (II) THE FEDERALLY QUALIFIED HEALTH CENTER PROVIDES  
6 INTEGRATED AND COORDINATED MEDICAL AND PHARMACEUTICAL SERVICES  
7 TO HIV POSITIVE, AIDS, AND HEPATITIS C PATIENTS; AND

8 (III) THE PRESCRIPTION DRUGS ARE COVERED SPECIALTY  
9 DRUGS FOR THE TREATMENT OF HIV, AIDS, OR HEPATITIS C.

10 (2) AN ENTITY SUBJECT TO THIS SECTION MAY NOT  
11 UNREASONABLY WITHHOLD APPROVAL OF A PHARMACY'S APPLICATION UNDER  
12 PARAGRAPH (1) OF THIS SUBSECTION.

13 ~~(E)~~ (F) AN ENTITY SUBJECT TO THIS SECTION MAY PROVIDE  
14 COVERAGE FOR SPECIALTY DRUGS THROUGH A MANAGED CARE SYSTEM.

15 (G) (1) A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION  
16 THAT A PRESCRIPTION DRUG IS NOT A SPECIALTY DRUG IS CONSIDERED A  
17 COVERAGE DECISION UNDER § 15-10D-01 OF THIS TITLE.

18 (2) FOR COMPLAINTS FILED WITH THE COMMISSIONER UNDER  
19 THIS SUBSECTION, IF THE ENTITY MADE ITS DETERMINATION THAT A  
20 PRESCRIPTION DRUG IS NOT A SPECIALTY DRUG ON THE BASIS THAT THE  
21 PRESCRIPTION DRUG DID NOT MEET THE CRITERIA LISTED IN SUBSECTION  
22 (A)(5)(I) OF THIS SECTION:

23 (I) THE COMMISSIONER MAY SEEK ADVICE FROM AN  
24 INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT ON THE LIST  
25 COMPILED UNDER § 15-10A-05(B) OF THIS TITLE; AND

26 (II) THE EXPENSES FOR ANY ADVICE PROVIDED BY AN  
27 INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT SHALL BE PAID  
28 FOR AS PROVIDED UNDER § 15-10A-05(H) OF THIS TITLE.

29 Article - Health - General

30 19-706.

31 (0000) THE PROVISIONS OF § 15-847 OF THE INSURANCE ARTICLE  
32 APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
2 policies, contracts, and health benefit plans issued, delivered, or renewed in the State  
3 on or after January 1, 2016.

4           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.