C3, J1 1lr2463 CF HB 709

By: Senator Ready

Introduced and read first time: January 29, 2021

Assigned to: Finance

## A BILL ENTITLED

1 AN ACT concerning

## 2 Pharmacy Benefits Managers - Drug Reimbursement - Reporting Requirements

- 3 FOR the purpose of requiring pharmacy benefits managers to file with the Maryland 4 Insurance Commissioner, beginning on a certain date and at certain intervals 5 thereafter, a certain report of all drugs appearing on a certain cost list that were 6 reimbursed during a certain time period at an amount below a certain cost plus a 7 certain fee; requiring that the report be made available to the public by the 8 Commissioner; providing that certain provisions of this Act apply to pharmacy 9 benefits managers that contract with managed care organizations in the same manner as they apply to pharmacy benefits managers that contract with carriers; 10 11 providing for the construction of certain provisions of this Act; and generally relating 12 to drug reimbursement reporting requirements for pharmacy benefits managers.
- 13 BY adding to
- 14 Article Health General
- 15 Section 15–102.3(i)
- 16 Annotated Code of Maryland
- 17 (2019 Replacement Volume and 2020 Supplement)
- 18 BY repealing and reenacting, with amendments,
- 19 Article Insurance
- 20 Section 15–1612
- 21 Annotated Code of Maryland
- 22 (2017 Replacement Volume and 2020 Supplement)
- 23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.
- 24 That the Laws of Maryland read as follows:
- 25 Article Health General
- 26 15–102.3.

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THE PROVISIONS OF § 15–1612(B) OF THE INSURANCE ARTICLE APPLY 1 **(J)** 2 TO PHARMACY BENEFITS MANAGERS THAT CONTRACT WITH MANAGED CARE 3 ORGANIZATIONS IN THE SAME MANNER AS THEY APPLY TO PHARMACY BENEFITS 4 MANAGERS THAT CONTRACT WITH CARRIERS. 5 Article - Insurance 6 15–1612. 7 This [section] **SUBSECTION** does not apply to reimbursement: **(1)** (a) [(1)] (I) 8 for specialty drugs; 9 [(2)] (II) for mail order drugs; or 10 [(3)] (III) to a chain pharmacy with more than 15 stores or a pharmacist 11 who is an employee of the chain pharmacy. 12 [(b)] **(2)** A pharmacy benefits manager may not reimburse a pharmacy or pharmacist for a pharmaceutical product or pharmacist service in an amount less than the 13 14 amount that the pharmacy benefits manager reimburses itself or an affiliate for providing 15 the same product or service. 16 (B) BEGINNING JANUARY 1, 2022, AND EVERY 3 MONTHS 17 THEREAFTER, EACH PHARMACY BENEFITS MANAGER SHALL FILE WITH THE 18 COMMISSIONER A REPORT OF ALL DRUGS APPEARING ON THE NATIONAL AVERAGE 19 Drug Acquisition Cost list that were reimbursed by the pharmacy 20 BENEFITS MANAGER DURING THE IMMEDIATELY PRECEDING 3-MONTH PERIOD AT AN AMOUNT BELOW THE NATIONAL AVERAGE DRUG ACQUISITION COST PLUS THE 21 FEE-FOR-SERVICE PROFESSIONAL DISPENSING FEE DETERMINED BY THE 22 23MARYLAND DEPARTMENT OF HEALTH FOR THE MARYLAND MEDICAL ASSISTANCE 24**PROGRAM** IN **ACCORDANCE** WITH THE MOST RECENT IN-STATE 25COST-OF-DISPENSING SURVEY. 26 THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS **(2)** 27 SUBSECTION SHALL: 28 **(I)** INCLUDE FOR EACH DRUG LISTED IN THE REPORT: 1. 29 THE MONTH THE DRUG WAS DISPENSED;

THE QUANTITY OF THE DRUG DISPENSED;

2.

1 <b>3.</b>	THE AMOUNT THE PHARMACY WAS REIMBURSED PER
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- 2 UNIT OR DOSAGE;
- 4. WHETHER THE DISPENSING PHARMACY WAS AN
- 4 AFFILIATE OF THE PHARMACY BENEFITS MANAGER;
- 5. WHETHER THE DRUG WAS REIMBURSED IN
- 6 ACCORDANCE WITH A STATE OR LOCAL GOVERNMENT HEALTH PLAN; AND
- 7 6. THE NATIONAL AVERAGE DRUG ACQUISITION COST
- 8 ON THE DAY THE DRUG WAS DISPENSED; AND
- 9 (II) BE MADE AVAILABLE TO THE PUBLIC BY THE
- 10 COMMISSIONER.
- 11 (3) This subsection may not be construed to preempt or
- 12 CONFLICT WITH ANY FEDERAL LAW OR REGULATION.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 14 October 1, 2021.