

SENATE BILL 931

C3, J1

EMERGENCY BILL

0lr3652
CF HB 652

By: **Senator Hayes**

Introduced and read first time: February 3, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2020

CHAPTER _____

1 AN ACT concerning

2 **Maryland Medical Assistance Program and Health Insurance – Specialty Drugs**
3 **– Definition**

4 FOR the purpose of prohibiting the Secretary of Health from considering certain drugs to
5 be specialty drugs for the purpose of providing services under the Maryland Medical
6 Assistance Program; altering the definition of “specialty drug” for the purpose of
7 excluding prescription drugs prescribed to treat certain medical conditions from the
8 definition of “specialty drug” for the purposes of certain provisions of law limiting
9 the authority of certain insurers, nonprofit health service plans, and health
10 maintenance organizations to impose copayment and coinsurance requirements
11 require a covered specialty drug to be obtained through a certain pharmacy or other
12 sources and to provide coverage for specialty drugs through a managed care system;
13 making conforming changes; providing for the application of this Act; making this
14 Act an emergency measure; and generally relating to specialty drugs.

15 BY repealing and reenacting, without amendments,

16 Article – Health – General
17 Section 15–101(a) and (h)
18 Annotated Code of Maryland
19 (2019 Replacement Volume)

20 BY adding to

21 Article – Health – General
22 Section 15–118.1
23 Annotated Code of Maryland

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 (2019 Replacement Volume)

2 BY repealing and reenacting, with amendments,
 3 Article – Insurance
 4 Section 15–847
 5 Annotated Code of Maryland
 6 (2017 Replacement Volume and 2019 Supplement)

7 BY adding to
 8 Article – Insurance
 9 Section 15–847.1
 10 Annotated Code of Maryland
 11 (2017 Replacement Volume and 2019 Supplement)

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

14 **Article – Health – General**

15 15–101.

16 (a) In this title the following words have the meanings indicated.

17 (h) “Program” means the Maryland Medical Assistance Program.

18 **15–118.1.**

19 **THE SECRETARY MAY NOT CONSIDER DRUGS PRESCRIBED TO TREAT**
 20 **DIABETES, HIV, OR AIDS TO BE SPECIALTY DRUGS FOR THE PURPOSE OF**
 21 **PROVIDING SERVICES UNDER THE PROGRAM.**

22 **Article – Insurance**

23 15–847.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) (i) “Complex or chronic medical condition” means a physical,
 26 behavioral, or developmental condition that:

27 1. may have no known cure;

28 2. is progressive; or

29 3. can be debilitating or fatal if left untreated or
 30 undertreated.

1 (ii) “Complex or chronic medical condition” includes:

- 2 1. multiple sclerosis;
- 3 2. hepatitis C; and
- 4 3. rheumatoid arthritis.

5 (3) “Managed care system” means a system of cost containment methods
6 that an insurer, a nonprofit health service plan, or a health maintenance organization uses
7 to review and preauthorize drugs prescribed by a health care provider for a covered
8 individual to control utilization, quality, and claims.

9 (4) (i) “Rare medical condition” means a disease or condition that
10 affects fewer than:

- 11 1. 200,000 individuals in the United States; or
- 12 2. approximately 1 in 1,500 individuals worldwide.

13 (ii) “Rare medical condition” includes:

- 14 1. cystic fibrosis;
- 15 2. hemophilia; and
- 16 3. multiple myeloma.

17 (5) (I) “Specialty drug” means a prescription drug that:

18 [(i)] 1. is prescribed for an individual with a complex or chronic
19 medical condition or a rare medical condition;

20 [(ii)] 2. costs \$600 or more for up to a 30-day supply;

21 [(iii)] 3. is not typically stocked at retail pharmacies; and

22 [(iv) 1.] 4. A. requires a difficult or unusual process of
23 delivery to the patient in the preparation, handling, storage, inventory, or distribution of
24 the drug; or

25 [2.] B. requires enhanced patient education, management,
26 or support, beyond those required for traditional dispensing, before or after administration
27 of the drug.

1 **(II) “SPECIALTY DRUG” DOES NOT INCLUDE A PRESCRIPTION**
2 **DRUG PRESCRIBED TO TREAT DIABETES, HIV, OR AIDS.**

3 (b) This section applies to:

4 (1) insurers and nonprofit health service plans that provide coverage for
5 prescription drugs under individual, group, or blanket health insurance policies or
6 contracts that are issued or delivered in the State; and

7 (2) health maintenance organizations that provide coverage for
8 prescription drugs under individual or group contracts that are issued or delivered in the
9 State.

10 (c) (1) Subject to paragraph (2) of this subsection, an entity subject to this
11 section may not impose a copayment or coinsurance requirement on a covered specialty
12 drug that exceeds \$150 for up to a 30-day supply of the specialty drug.

13 (2) On July 1 of each year, the limit on the copayment or coinsurance
14 requirement on a covered specialty drug shall increase by a percentage equal to the
15 percentage change from the preceding year in the medical care component of the March
16 Consumer Price Index for All Urban Consumers, Washington Metropolitan Area, from the
17 U.S. Department of Labor, Bureau of Labor Statistics.

18 (d) Subject to § 15–805 of this subtitle and notwithstanding § 15–806 of this
19 subtitle, nothing in this article or regulations adopted under this article precludes an entity
20 subject to this section from requiring a covered specialty drug to be obtained through:

21 (1) a designated pharmacy or other source authorized under the Health
22 Occupations Article to dispense or administer prescription drugs; or

23 (2) a pharmacy participating in the entity’s provider network, if the entity
24 determines that the pharmacy:

25 (i) meets the entity’s performance standards; and

26 (ii) accepts the entity’s network reimbursement rates.

27 (e) (1) A pharmacy registered under § 340B of the federal Public Health
28 Services Act may apply to an entity subject to this section to be a designated pharmacy
29 under subsection (d)(1) of this section for the purpose of enabling the pharmacy’s patients
30 with [HIV, AIDS, or] hepatitis C to receive the copayment or coinsurance maximum
31 provided for in subsection (c) of this section if:

32 (i) the pharmacy is owned by a federally qualified health center, as
33 defined in 42 U.S.C. § 254B;

1 (ii) the federally qualified health center provides integrated and
2 coordinated medical and pharmaceutical services to [HIV positive, AIDS, and] hepatitis C
3 patients; and

4 (iii) the prescription drugs are covered specialty drugs for the
5 treatment of [HIV, AIDS, or] hepatitis C.

6 (2) An entity subject to this section may not unreasonably withhold
7 approval of a pharmacy's application under paragraph (1) of this subsection.

8 (f) An entity subject to this section may provide coverage for specialty drugs
9 through a managed care system.

10 (g) (1) A determination by an entity subject to this section that a prescription
11 drug is not a specialty drug is considered a coverage decision under § 15-10D-01 of this
12 title.

13 (2) For complaints filed with the Commissioner under this subsection, if
14 the entity made its determination that a prescription drug is not a specialty drug on the
15 basis that the prescription drug did not meet the criteria listed in subsection (a)(5)(i) of this
16 section:

17 (i) the Commissioner may seek advice from an independent review
18 organization or medical expert on the list compiled under § 15-10A-05(b) of this title; and

19 (ii) the expenses for any advice provided by an independent review
20 organization or medical expert shall be paid for as provided under § 15-10A-05(h) of this
21 title.

22 **15-847.1.**

23 **(A) THIS SECTION APPLIES TO:**

24 **(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT**
25 **PROVIDE COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL, GROUP, OR**
26 **BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR**
27 **DELIVERED IN THE STATE; AND**

28 **(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE**
29 **COVERAGE FOR PRESCRIPTION DRUGS UNDER INDIVIDUAL GROUP CONTRACTS**
30 **THAT ARE ISSUED OR DELIVERED IN THE STATE.**

31 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ENTITY**
32 **SUBJECT TO THIS SECTION MAY NOT IMPOSE A COPAYMENT OR COINSURANCE**
33 **REQUIREMENT ON A PRESCRIPTION DRUG PRESCRIBED TO TREAT DIABETES, HIV,**
34 **OR AIDS THAT EXCEEDS \$150 FOR UP TO A 30-DAY SUPPLY OF THE DRUG.**

1 **(2) ON JULY 1 EACH YEAR, THE LIMIT ON THE COPAYMENT OR**
 2 **COINSURANCE REQUIREMENT ON A PRESCRIPTION DRUG PRESCRIBED TO TREAT**
 3 **DIABETES, HIV, OR AIDS SHALL INCREASE BY A PERCENTAGE EQUAL TO THE**
 4 **PERCENTAGE CHANGE FROM THE PRECEDING YEAR IN THE MEDICAL CARE**
 5 **COMPONENT OF THE MARCH CONSUMER PRICE INDEX FOR ALL URBAN**
 6 **CONSUMERS, WASHINGTON METROPOLITAN AREA, FROM THE U.S. DEPARTMENT**
 7 **OF LABOR, BUREAU OF LABOR STATISTICS.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
 9 policies, contracts, and health benefit plans issued, delivered, amended, or renewed in the
 10 State on or after the effective date of this Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
 12 measure, is necessary for the immediate preservation of the public health or safety, has
 13 been passed by a ye and nay vote supported by three-fifths of all the members elected to
 14 each of the two Houses of the General Assembly, and shall take effect from the date it is
 15 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.