

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 363 (Senator Conway)
Education, Health, and Environmental Affairs

Pharmacists - Contraceptives - Prescribing and Dispensing

This bill expands the scope of practice for a licensed pharmacist, who meets specified requirements, to include prescribing and dispensing contraceptive medications and self-administered contraceptive devices approved by the U.S. Food and Drug Administration (FDA). The State Board of Pharmacy must adopt regulations establishing the conditions under which a pharmacist may prescribe and dispense contraceptives. Insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) that provide coverage for contraceptive drugs and devices, as well as Medicaid and the Maryland Children's Health Program (MCHP), must provide coverage for the prescribing and dispensing of contraceptives by a licensed pharmacist.

The bill takes effect January 1, 2018.

Fiscal Summary

State Effect: Medicaid and MCHP expenditures increase by an indeterminate amount (approximately 90% federal funds, 10% general funds) beginning in FY 2018 to provide coverage as required under the bill. Federal matching fund revenues increase accordingly. Likely no impact on the State Employee and Retiree Health and Welfare Benefits Program (State Plan), as discussed below. The State Board of Pharmacy can adopt the required regulations using existing budgeted resources.

Local Effect: The bill does not affect the finance or operations of local governments.

Small Business Effect: Meaningful for small business pharmacies that may prescribe and dispense specified contraceptive medications and devices and receive reimbursement for such services under the bill.

Analysis

Bill Summary: The regulations adopted by the board must require a pharmacist to (1) complete a training program approved by the board; (2) provide a self-screening risk assessment tool that a patient must use before a pharmacist may prescribe contraceptives for the patient; and (3) after prescribing and dispensing contraceptives, refer the patient for any additional care, provide the patient with a written record of the contraceptives dispensed, and record the prescribing and dispensing in any electronic health record maintained on the patient by the pharmacist. The training program requirement may be waived for a pharmacist who has already undergone such training as part of the pharmacist's formal educational program.

A carrier, as well as Medicaid and MCHP, must provide coverage for services rendered by a licensed pharmacist, to the same extent as services rendered by any other licensed health care practitioner, in screening an individual and prescribing contraceptives for the individual.

Current Law: An individual must be licensed by the State Board of Pharmacy to practice pharmacy in the State. The practice of pharmacy includes compounding, dispensing, or distributing prescription drugs or devices; monitoring prescriptions; providing information, explanation, and recommendations to patients and health care practitioners about the safe and effective use of prescription drugs or devices; providing drug therapy management; and administering vaccinations. To administer vaccinations, a pharmacist must submit a registration form to the board that includes verification that the pharmacist has successfully completed a specified certification course and is certified in cardiopulmonary resuscitation. A pharmacist may also administer a self-administered drug to a patient in accordance with regulations adopted by the board.

Carriers must provide coverage for any FDA-approved prescription contraceptive drug or device, including coverage for the insertion or removal or any medically necessary examination associated with the use of a contraceptive drug or device. Carriers may not impose a different copayment or coinsurance for a contraceptive drug or device than is imposed for any other prescription. Carriers, as well as Medicaid and MCHP, are prohibited from requiring prior authorization for certain prescription contraceptive drugs or devices. Carriers must provide coverage for off-formulary prescription contraceptives for adherence purposes and provide coverage for FDA-approved over-the-counter contraceptive drugs.

Background: Pharmacists in several states can prescribe certain drugs under the supervision of a physician. However, two states (California and Oregon) specifically authorize pharmacists to prescribe contraceptives. Similar legislation has been considered in Hawaii, Missouri, South Carolina, Tennessee, and Washington.

State Fiscal Effect: Medicaid and MCHP expenditures (approximately 90% federal funds, 10% general funds) increase by an indeterminate amount beginning in fiscal 2018 to provide coverage for the *prescribing* of contraceptives by a licensed pharmacist. The Department of Health and Mental Hygiene advises that Medicaid/MCHP will need to enroll eligible pharmacists as Medicaid providers (currently, only *pharmacies* are enrolled providers) and set a reimbursement rate for the service of *prescribing* contraceptives (a dispensing fee is already paid to the pharmacy). It is unknown how many licensed pharmacists will elect to prescribe contraceptives and enroll as Medicaid providers. Furthermore, it is unknown whether authorizing pharmacists to prescribe contraceptives will increase the total number of contraceptive prescriptions written for Medicaid/MCHP enrollees or if there will be a substitution effect for the source of such prescriptions.

The State Plan is largely self-insured for its medical contracts and, as such, with the exception of the one fully insured integrated health model medical plan, is not subject to mandates. The Department of Budget and Management advises that, as the State Plan is not subject to the mandate, prescribing of contraceptives by a licensed pharmacist will *not* be a covered service for enrollees. However, the Department of Legislative Services notes that the State Plan generally provides coverage for mandated health insurance benefits despite being largely exempt.

Additional Information

Prior Introductions: None.

Cross File: HB 613 (Delegate Hettleman, *et al.*) – Health and Government Operations.

Information Source(s): The Pew Charitable Trusts; Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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