

# HOUSE BILL 793

C3

4r1452

---

By: **Delegates Kach, Bromwell, Elliott, and Olszewski**

Introduced and read first time: February 3, 2014

Assigned to: Health and Government Operations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Pharmacy Contracts – Payments**

3 FOR the purpose of requiring a pharmacy benefits manager to include in its contract  
4 with a pharmacy, a pharmacy services administration organization, or a group  
5 purchasing organization the methodology used by the pharmacy benefits  
6 manager to calculate a certain reimbursement paid for each drug, medical  
7 product, and device that is a covered pharmacy benefit administered by the  
8 pharmacy benefits manager; requiring a pharmacy benefits manager to include  
9 in its contract with a pharmacy, a pharmacy services administration  
10 organization, or a group purchasing organization certain information and a  
11 certain methodology, make available to a contracted pharmacy a certain list and  
12 a certain maximum allowable cost, review and make certain adjustments to the  
13 maximum allowable cost, make available to a contracted pharmacy certain  
14 updates, allow a contracted pharmacy to resubmit a claim for payment under  
15 certain circumstances, and provide a process for a contracted pharmacy to  
16 appeal the maximum allowable cost; establishing certain requirements for the  
17 appeal process; requiring a pharmacy benefits manager, if it denies an appeal,  
18 to provide the reason for the denial and identify a certain national drug code  
19 product; requiring a pharmacy benefits manager to adjust the maximum  
20 allowable cost in a certain manner and provide a certain notice under certain  
21 circumstances; prohibiting a pharmacy benefits manager from requiring a  
22 pharmacy to dispense a prescription for a certain contractual reimbursement  
23 amount; defining certain terms; providing for the application of this Act; and  
24 generally relating to pharmacy benefits managers and payments to pharmacies  
25 for covered drugs, medical products, and devices.

26 BY adding to

27 Article – Insurance

28 Section 15–1628.1 and 15–1628.2

29 Annotated Code of Maryland

30 (2011 Replacement Volume and 2013 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Insurance**

4 **15-1628.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (2) “CONTRACTED PHARMACY” MEANS A PHARMACY THAT  
8 PARTICIPATES IN THE NETWORK OF A PHARMACY BENEFITS MANAGER  
9 THROUGH A CONTRACT WITH:

10 (I) THE PHARMACY BENEFITS MANAGER; OR

11 (II) A PHARMACY SERVICES ADMINISTRATION  
12 ORGANIZATION OR A GROUP PURCHASING ORGANIZATION.

13 (3) (I) “DRUG PRODUCT REIMBURSEMENT” MEANS THE  
14 AMOUNT PAID BY A PHARMACY BENEFITS MANAGER TO A CONTRACTED  
15 PHARMACY FOR THE COST OF A DRUG, A MEDICAL PRODUCT, OR A DEVICE  
16 DISPENSED TO A BENEFICIARY.

17 (II) “DRUG PRODUCT REIMBURSEMENT” DOES NOT  
18 INCLUDE A DISPENSING FEE OR A PROFESSIONAL FEE.

19 (4) “MAXIMUM ALLOWABLE COST” MEANS THE MAXIMUM  
20 AMOUNT THAT A PHARMACY BENEFITS MANAGER OR A PURCHASER WILL  
21 REIMBURSE A CONTRACTED PHARMACY FOR THE COST OF A MULTISOURCE  
22 GENERIC DRUG, A MEDICAL PRODUCT, OR A DEVICE.

23 (5) “MAXIMUM ALLOWABLE COST LIST” MEANS A LIST OF  
24 MULTISOURCE GENERIC DRUGS, MEDICAL PRODUCTS, AND DEVICES FOR WHICH  
25 A MAXIMUM ALLOWABLE COST HAS BEEN ESTABLISHED BY A PHARMACY  
26 BENEFITS MANAGER OR A PURCHASER.

27 (B) A PHARMACY BENEFITS MANAGER SHALL INCLUDE IN ITS  
28 CONTRACT WITH A PHARMACY, A PHARMACY SERVICES ADMINISTRATION  
29 ORGANIZATION, OR A GROUP PURCHASING ORGANIZATION THE METHODOLOGY  
30 USED BY THE PHARMACY BENEFITS MANAGER TO CALCULATE THE DRUG  
31 PRODUCT REIMBURSEMENT PAID FOR EACH DRUG, MEDICAL PRODUCT, AND

1 DEVICE THAT IS A COVERED PHARMACY BENEFIT ADMINISTERED BY THE  
2 PHARMACY BENEFITS MANAGER.

3 (C) A PHARMACY BENEFITS MANAGER SHALL:

4 (1) INCLUDE IN ITS CONTRACT WITH A PHARMACY, A PHARMACY  
5 SERVICES ADMINISTRATION ORGANIZATION, OR A GROUP PURCHASING  
6 ORGANIZATION, FOR EVERY DRUG, MEDICAL PRODUCT, AND DEVICE FOR WHICH  
7 THE PHARMACY BENEFITS MANAGER ESTABLISHES A MAXIMUM ALLOWABLE  
8 COST TO DETERMINE THE DRUG PRODUCT REIMBURSEMENT:

9 (I) INFORMATION IDENTIFYING THE NATIONAL DRUG  
10 PRICING COMPENDIA OR OTHER SOURCE USED TO OBTAIN THE DRUG, MEDICAL  
11 PRODUCT, AND DEVICE PRICE DATA; AND

12 (II) THE METHODOLOGY USED TO CALCULATE THE  
13 MAXIMUM ALLOWABLE COST;

14 (2) MAKE AVAILABLE TO A CONTRACTED PHARMACY:

15 (I) THE MAXIMUM ALLOWABLE COST LIST OF THE  
16 PHARMACY BENEFITS MANAGER; AND

17 (II) THE MAXIMUM ALLOWABLE COST FOR EACH DRUG,  
18 MEDICAL PRODUCT, AND DEVICE ON THE MAXIMUM ALLOWABLE COST LIST;

19 (3) AT LEAST EVERY 7 DAYS, REVIEW AND MAKE ANY NECESSARY  
20 ADJUSTMENTS TO:

21 (I) THE DRUGS, MEDICAL PRODUCTS, AND DEVICES ON THE  
22 MAXIMUM ALLOWABLE COST LIST; AND

23 (II) THE MAXIMUM ALLOWABLE COST OF EACH DRUG,  
24 MEDICAL PRODUCT, AND DEVICE ON THE MAXIMUM ALLOWABLE COST LIST TO  
25 REFLECT THE CURRENT MANUFACTURER PRICE FOR THE DRUG, MEDICAL  
26 PRODUCT, AND DEVICE;

27 (4) AFTER REVIEWING AND MAKING NECESSARY ADJUSTMENTS,  
28 MAKE AVAILABLE TO A CONTRACTED PHARMACY WEEKLY UPDATES OF:

29 (I) THE MAXIMUM ALLOWABLE COST LIST; AND

1                   **(II) THE MAXIMUM ALLOWABLE COST FOR EACH DRUG,**  
2 **MEDICAL PRODUCT, AND DEVICE ON THE MAXIMUM ALLOWABLE COST LIST;**

3                   **(5) ALLOW A CONTRACTED PHARMACY TO RESUBMIT A CLAIM**  
4 **FOR PAYMENT AT THE MAXIMUM ALLOWABLE COST IN EFFECT ON THE DATE OF**  
5 **THE ORIGINAL CLAIM SUBMISSION IF THE PHARMACY'S CLAIM WAS ORIGINALLY**  
6 **SUBMITTED AT A MAXIMUM ALLOWABLE COST THAT CHANGED ON OR BEFORE**  
7 **THE ORIGINAL CLAIM SUBMISSION DATE; AND**

8                   **(6) PROVIDE A PROCESS FOR A CONTRACTED PHARMACY TO**  
9 **APPEAL A MAXIMUM ALLOWABLE COST.**

10                  **(D) THE APPEAL PROCESS REQUIRED UNDER SUBSECTION (C)(6) OF**  
11 **THIS SECTION SHALL:**

12                   **(1) ALLOW A CONTRACTED PHARMACY TO APPEAL A MAXIMUM**  
13 **ALLOWABLE COST WITHIN 60 DAYS AFTER THE DATE OF THE ORIGINAL CLAIM**  
14 **SUBMISSION; AND**

15                   **(2) REQUIRE A PHARMACY BENEFITS MANAGER TO INVESTIGATE**  
16 **AND MAKE A DECISION ON AN APPEAL WITHIN 7 BUSINESS DAYS AFTER**  
17 **RECEIVING THE APPEAL.**

18                  **(E) IF A PHARMACY BENEFITS MANAGER DENIES AN APPEAL, THE**  
19 **PHARMACY BENEFITS MANAGER SHALL:**

20                   **(1) PROVIDE THE REASON FOR THE DENIAL; AND**

21                   **(2) IDENTIFY THE NATIONAL DRUG CODE PRODUCT AVAILABLE**  
22 **TO PHARMACIES IN THE STATE THAT MAY BE PURCHASED AT A PRICE AT OR**  
23 **BELOW THE MAXIMUM ALLOWABLE COST.**

24                  **(F) IF, AS A RESULT OF AN APPEAL, A PHARMACY BENEFITS MANAGER**  
25 **DETERMINES THAT THE MAXIMUM ALLOWABLE COST HAS BEEN APPLIED**  
26 **INCORRECTLY, THE PHARMACY BENEFITS MANAGER SHALL:**

27                   **(1) ADJUST THE MAXIMUM ALLOWABLE COST RETROACTIVE TO**  
28 **THE DATE OF THE ORIGINAL CLAIM; AND**

29                   **(2) NOTIFY THE CONTRACTED PHARMACY THAT ALL PAYMENT**  
30 **CLAIMS SUBMITTED AFTER THE EFFECTIVE DATE OF THE MAXIMUM ALLOWABLE**  
31 **COST ADJUSTMENT MAY BE RESUBMITTED, AT NO ADDITIONAL COST TO THE**

1 CONTRACTED PHARMACY, FOR PAYMENT AT THE ADJUSTED MAXIMUM  
2 ALLOWABLE COST.

3 15-1628.2.

4 A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE A PHARMACY TO  
5 DISPENSE A PRESCRIPTION FOR A CONTRACTUAL REIMBURSEMENT AMOUNT  
6 THAT IS BELOW THE PHARMACY'S ACQUISITION COST.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
8 contracts between a pharmacy benefits manager and a pharmacy, a pharmacy services  
9 administration organization, or a group purchasing organization entered into or  
10 renewed on or after July 1, 2014.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 July 1, 2014.