

HOUSE BILL 908

C3

3lr0381

By: **Delegate Kach**

Introduced and read first time: February 7, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Benefits Managers – Prescription Drugs – Maximum Allowable**
3 **Cost Prices**

4 FOR the purpose of requiring a pharmacy benefits manager to disclose to a purchaser
5 and specify in its contract with a purchaser certain information relating to
6 maximum allowable cost prices for certain prescription drugs; requiring a
7 pharmacy benefits manager to specify in its contract with a pharmacy or
8 pharmacist certain information relating to maximum allowable drug prices for
9 certain prescription drugs; requiring a pharmacy benefits manager to update
10 the maximum allowable cost prices with a certain frequency; requiring a
11 pharmacy benefits manager to establish a process for taking certain actions
12 relating to maximum allowable cost prices; requiring a pharmacy benefits
13 manager to establish a procedure that allows a pharmacy or pharmacist to
14 appeal a maximum allowable cost price; establishing certain requirements
15 relating to an appeal; providing that, under certain circumstances, a pharmacy
16 benefits manager must ensure that a prescription drug meets certain
17 requirements; and generally relating to maximum allowable cost prices for
18 prescription drugs in pharmacy benefits manager contracts.

19 BY adding to

20 Article – Insurance

21 Section 15–1623(c) and 15–1628.1

22 Annotated Code of Maryland

23 (2011 Replacement Volume and 2012 Supplement)

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

26 **Article – Insurance**

27 15–1623.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **2. REIMBURSED TO ALL PHARMACIES AND**
2 **PHARMACISTS IN THE PHARMACY BENEFITS MANAGER’S NETWORK.**

3 **15-1628.1.**

4 **(A) A PHARMACY BENEFITS MANAGER SHALL:**

5 **(1) SPECIFY IN ITS CONTRACT WITH A PHARMACY OR**
6 **PHARMACIST:**

7 **(I) THE MAXIMUM ALLOWABLE COST PRICES FOR THE**
8 **PRESCRIPTION DRUGS THAT ARE:**

9 **1. COVERED UNDER THE CONTRACT; AND**

10 **2. REIMBURSED ON THE BASIS OF THE MAXIMUM**
11 **ALLOWABLE COST PRICE; AND**

12 **(II) THE METHODOLOGY USED TO ESTABLISH THE MAXIMUM**
13 **ALLOWABLE COST PRICES;**

14 **(2) UPDATE THE MAXIMUM ALLOWABLE COST PRICES AT LEAST**
15 **EVERY 7 CALENDAR DAYS; AND**

16 **(3) ESTABLISH A PROCESS FOR:**

17 **(I) PROMPTLY NOTIFYING THE PHARMACIES AND**
18 **PHARMACISTS IN ITS NETWORK OF THE MAXIMUM ALLOWABLE COST PRICES**
19 **AND ANY UPDATES;**

20 **(II) ELIMINATING PRESCRIPTION DRUGS FROM THE**
21 **MAXIMUM ALLOWABLE COST PRICE LIST; AND**

22 **(III) MODIFYING MAXIMUM ALLOWABLE COST PRICES IN A**
23 **TIMELY WAY TO REMAIN CONSISTENT WITH PRICING CHANGES IN THE MARKET.**

24 **(B) A PHARMACY BENEFITS MANAGER SHALL:**

25 **(1) ESTABLISH A PROCEDURE THAT ALLOWS A PHARMACY OR**
26 **PHARMACIST TO APPEAL A MAXIMUM ALLOWABLE COST PRICE FOR A**
27 **PRESCRIPTION DRUG DISPENSED BY THE PHARMACY OR PHARMACIST;**

1 **(2) RESPOND TO AN APPEAL WITHIN 15 CALENDAR DAYS AFTER**
2 **RECEIVING THE APPEAL; AND**

3 **(3) IF THE PHARMACY BENEFITS MANAGER AGREES WITH THE**
4 **PHARMACY OR PHARMACIST:**

5 **(I) ALTER THE MAXIMUM ALLOWABLE COST PRICE**
6 **RETROACTIVE TO THE DISPENSING DATE; AND**

7 **(II) MAKE THE ALTERED MAXIMUM ALLOWABLE COST PRICE**
8 **EFFECTIVE FOR ALL PHARMACIES AND PHARMACISTS IN THE PHARMACY**
9 **BENEFITS MANAGER’S NETWORK.**

10 **(C) TO INCLUDE A MAXIMUM ALLOWABLE COST PRICE FOR A**
11 **PRESCRIPTION DRUG IN A CONTRACT WITH A PHARMACY OR PHARMACIST, A**
12 **PHARMACY BENEFITS MANAGER SHALL ENSURE THAT THE PRESCRIPTION**
13 **DRUG:**

14 **(1) HAS AT LEAST THREE NATIONALLY AVAILABLE AND**
15 **THERAPEUTICALLY EQUIVALENT MULTIPLE SOURCES WITH A SIGNIFICANT**
16 **COST DIFFERENCE;**

17 **(2) IS LISTED AS THERAPEUTICALLY AND PHARMACEUTICALLY**
18 **EQUIVALENT (“A” RATED) IN THE MOST RECENT VERSION OF THE U.S. FOOD**
19 **AND DRUG ADMINISTRATION PUBLICATION “APPROVED DRUG PRODUCTS**
20 **WITH THERAPEUTIC EQUIVALENCE EVALUATIONS” (“ORANGE BOOK”);**

21 **(3) IS AVAILABLE FOR PURCHASE WITHOUT LIMITATION, FROM**
22 **NATIONAL OR REGIONAL WHOLESALE DISTRIBUTORS, BY ALL PHARMACIES AND**
23 **PHARMACISTS IN THE STATE; AND**

24 **(4) IS NOT OBSOLETE OR TEMPORARILY UNAVAILABLE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2013.