P6, P4	2lr1090
HB 1230/20 – APP	CF SB 578

By: Delegates Boteler, Adams, Anderton, Arentz, Arikan, Belcastro, Buckel, Carey, Ciliberti, Ghrist, Grammer, Griffith, Guyton, Hartman, Hornberger, Howard, Impallaria, Jackson, Jacobs, Jalisi, D. Jones, Kipke, Kittleman, Krebs, Landis, Lisanti, Long, Mautz, McComas, McKay, Metzgar, Morgan, Munoz, Novotny, Otto, Parrott, Reilly, Rose, Saab, Shoemaker, Szeliga, and Wivell

Introduced and read first time: February 7, 2022 Assigned to: Appropriations

## A BILL ENTITLED

## 1 AN ACT concerning

#### $\mathbf{2}$

## **State Prescription Drug Benefits - Retirees**

3 FOR the purpose of authorizing certain retirees who began State service before a certain 4 date to be eligible for prescription drug benefits in the State Employee and Retiree  $\mathbf{5}$ Health and Welfare Benefits Program; specifying that prescription drug benefits 6 shall be discontinued for certain Medicare–eligible retirees who began State service 7 on or after a certain date and their Medicare-eligible spouses and dependent 8 children; repealing the Maryland State Retiree Prescription Drug Coverage 9 Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance 10 Program, and the Maryland State Retiree Life–Sustaining Prescription Drug 11 Assistance Program; repealing a requirement that the Secretary of Budget and 12Management provide a certain notice; repealing a requirement for the Department of Budget and Management to submit certain reports and ensure Medicare-eligible 1314retirees have access to certain services; and generally relating to State prescription 15drug benefits for retirees from State employment.

- 16 BY repealing and reenacting, with amendments,
- 17 Article State Personnel and Pensions
- 18 Section 2–509.1
- 19 Annotated Code of Maryland
- 20 (2015 Replacement Volume and 2021 Supplement)
- BY repealing
  Chapter 767 of the Acts of the General Assembly of 2019
  Section 2, 4, and 5

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law.



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

3

## **Article - State Personnel and Pensions**

4 2-509.1.

5 (a) (1) Except as provided in subsection (b) of this section, the State shall 6 continue to include a prescription drug benefit plan in the health insurance benefit options 7 established under the Program and available to retirees under §§ 2–508 and 2–509 of this 8 subtitle notwithstanding the enactment of the federal Medicare Prescription Drug, 9 Improvement, and Modernization Act of 2003 or any other federal law permitting states to 10 discontinue prescription drug benefit plans to retirees of a state.

- 11
- (2) Except as provided in subsection (b) of this section:

12 (i) a retiree may elect to cover the retiree's spouse or dependent 13 child under the State prescription drug benefit plan under §§ 2–508 and 2–509 of this 14 subtitle; and

(ii) if a surviving spouse or surviving dependent child of a retiree is
eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of this
subtitle, the surviving spouse or surviving dependent child may elect to enroll in the State
prescription drug benefit plan.

## 19 (b) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE WHO BEGAN 20 STATE SERVICE ON OR AFTER JULY 1, 2011.

(2) Except as provided in [subsection (c) of this section] PARAGRAPH (3)
 OF THIS SUBSECTION, on January 1, 2019, the State shall discontinue prescription drug
 benefits for:

24 [(1)] (I) a Medicare–eligible retiree;

25 [(2)] (II) the Medicare–eligible spouse or surviving spouse of a retiree; and

26 [(3)] (III) a Medicare–eligible dependent child or surviving dependent child 27 of a retiree.

[(c) (1)] (3) (I) If a retiree is eligible to participate in the prescription drug benefit plan under Medicare, but the retiree's spouse or dependent child is not eligible to participate in a Medicare prescription drug benefit plan, the retiree may elect to cover the retiree's spouse or dependent child under the State prescription drug benefit plan.

32 [(2)] (II) If the surviving spouse or surviving dependent child of a retiree 33 is eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of

 $\mathbf{2}$ 

1 this subtitle, but is not eligible to participate in the prescription drug benefit plan under  $\mathbf{2}$ Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State 3 prescription drug benefit plan. 4 This subsection applies only to a retiree, a retiree's spouse or surviving (d) (1) $\mathbf{5}$ spouse, and a retiree's dependent child or surviving dependent child: 6 (i) who is enrolled in a prescription drug benefit plan under 7 Medicare; 8 (ii) if the retiree is retired on or before December 31, 2019; and 9 (iii) if the retiree is eligible under § 2-508 or § 2-509 of this subtitle to enroll and participate in the health insurance benefit options established under the 10 Program. 11 12(2)Subject to subparagraph (ii) of this paragraph, on or before (i) 13January 1, 2020, the Department shall establish a Maryland State Retiree Prescription 14Drug Coverage Program that reimburses a participant for out-of-pocket costs that exceed 15the limits established for non-Medicare-eligible retirees in § 2-508(d)(2)(iii) of this 16 subtitle. 17The Department may establish an out-of-pocket limit higher (ii) 18than the limits established in subparagraph (i) of this paragraph for a retiree who qualifies 19 for a partial State subsidy. 20The Maryland State Retiree Prescription Drug Coverage Program (3)established under paragraph (2) of this subsection may include: 2122a health reimbursement account established in accordance with (i) 23§ 105(h) of the Internal Revenue Code; or 24(ii) another program that provides assistance with prescription drug 25costs. 26(4)A retiree, a retiree's spouse or surviving spouse, and a retiree's 27dependent child or surviving dependent child may enroll in the Maryland State Retiree 28Prescription Drug Coverage Program during the open enrollment period or any special 29enrollment period for retiree health insurance benefit options. 30 (e) This subsection applies only to a retiree, a retiree's spouse or surviving (1)spouse, and a retiree's dependent child or surviving dependent child: 31 32(i) who is enrolled in a prescription drug benefit plan under Medicare: and 33

34 (ii) if the retiree:

1	1. began State service on or before June 30, 2011;
2	2. retired on or after January 1, 2020; and
$\frac{3}{4}$	3. is eligible under § $2-508$ or § $2-509$ of this subtitle to enroll and participate in the health insurance benefit options established under the Program.
5 6 7 8 9	(2) (i) Subject to subparagraph (ii) of this paragraph, on or before January 1, 2020, the Department shall establish a Maryland State Retiree Catastrophic Prescription Drug Assistance Program that reimburses a participant for out-of-pocket costs after the participant has entered catastrophic coverage under a prescription drug benefit plan under Medicare.
10 11	(ii) The Department may establish a maximum reimbursement amount for a retiree who qualifies for a partial State subsidy.
$\begin{array}{c} 12\\ 13 \end{array}$	(3) The Maryland State Retiree Catastrophic Prescription Drug Assistance Program under paragraph (2) of this subsection may provide reimbursements through:
$\begin{array}{c} 14 \\ 15 \end{array}$	(i) a health reimbursement account established in accordance with § 105(h) of the Internal Revenue Code; or
$\begin{array}{c} 16 \\ 17 \end{array}$	(ii) another program that provides assistance with prescription drug costs.
18 19 20 21	(4) A retiree, a retiree's spouse or surviving spouse, and a retiree's dependent child or surviving dependent child may enroll in the Maryland State Retiree Catastrophic Prescription Drug Assistance Program during the open enrollment period or any special enrollment period for retiree health insurance benefit options.
$\frac{22}{23}$	(f) (1) This subsection applies only to a retiree, a retiree's spouse or surviving spouse, and a retiree's dependent child or surviving dependent child:
24	(i) who is enrolled in:
$\frac{25}{26}$	1. the Maryland State Retiree Prescription Drug Coverage Program established under subsection (d) of this section; or
$\begin{array}{c} 27\\ 28 \end{array}$	2. the Maryland State Retiree Catastrophic Prescription Drug Assistance Program established under subsection (e) of this section; and
29 30 31	(ii) if the retiree is eligible under § 2–508 or § 2–509 of this subtitle to enroll and participate in the health insurance benefit options established under the Program.
32	(2) (i) On or before January 1, 2020, the Department shall establish a

Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program that 1  $\mathbf{2}$ reimburses a participant for out-of-pocket costs for a life-sustaining prescription drug that 3 is: 4 1. covered by the prescription drug benefit plan in the health  $\mathbf{5}$ insurance benefit options established under the Program; and 6 not covered by the prescription drug benefit plan under 2. 7Medicare in which the participant is enrolled. 8 (ii) The Department shall develop a list of the prescription drugs 9 that qualify for reimbursement under subparagraph (i) of this paragraph. 10 The Department may establish maximum reimbursement (iii) 11 amounts for a retiree who qualifies for a partial State subsidy. 12(3)The Maryland State Retiree Life-Sustaining Prescription Drug 13Assistance Program established under paragraph (2) of this subsection may provide 14reimbursements through: a health reimbursement account established in accordance with 15(i) 16§ 105(h) of the Internal Revenue Code; or 17(ii) another program that provides assistance with prescription drug 18 costs. (4) 19 A retiree, a retiree's spouse or surviving spouse, and a retiree's 20dependent child or surviving dependent child shall be automatically enrolled in the 21Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program on 22enrollment in: 23the Maryland State Retiree Prescription Drug Coverage Program (i) established under subsection (d) of this section; or 2425the Maryland State Retiree Catastrophic Prescription Drug (ii) 26Assistance Program established under subsection (e) of this section. 27Subject to paragraph (2) of this subsection, not later than July 1 of each (g) (1)year, the Secretary shall provide written certified notice of the change in the State 28prescription drug benefit plan under this section to the individuals who will become eligible 2930 in the next calendar year to enroll in the: 31 Maryland State Retiree Prescription Drug Coverage Program; (i) 32Maryland State Retiree Catastrophic Prescription Drug (ii) 33 Assistance Program; or

HOUSE	BILL	892
-------	------	-----

6

(iii)

1 Maryland State Retiree Life-Sustaining Prescription Drug  $\mathbf{2}$ Assistance Program. 3 (2)The notice shall include information regarding: 4 coverage options available in the Medicare prescription drug (i) benefit plan, including options that are similar to the prescription drug benefit plan in the  $\mathbf{5}$ health insurance benefit options established under the Program; 6 7 the potential for significant penalties if an individual does not (ii) 8 promptly choose a Medicare prescription drug benefit plan immediately on termination of 9 the individual's participation in the State prescription drug benefit plan; 10 the programs available under subsections (d), (e), and (f) of this (iii) 11 section; and 12(iv) any additional resources made available by the Department in 13accordance with this section. The Department shall ensure Medicare-eligible retirees have access to 14 (h) (1)15one-on-one counseling services to assist retirees in selecting a Medicare prescription drug benefit plan. 1617(2)The Department shall develop plan to communicate а to 18 Medicare-eligible retirees the availability of: 19 the programs under subsections (d), (e), and (f) of this section; (i) 20and 21services and information regarding prescription drug benefit (ii) 22plans under Medicare. 23On or before December 31, 2019, the Department shall submit a report (3)24to the Senate Budget and Taxation Committee and the House Appropriations Committee, 25in accordance with 2-1257 of the State Government Article, on the plan developed under 26paragraph (2) of this subsection. 27(4) The report required under paragraph (3) of this subsection shall include: 2829(i) options for providing one-on-one counseling, including: 30 1. in-person, over-the-phone, or web-based counseling; 31 2.the times at which one-on-one counseling will be 32available;

$\frac{1}{2}$	3. a plan to ensure equitable geographic access to one-on-one counseling; and
$\frac{3}{4}$	4. entering into a statewide contract with an employee benefits administrator or similar entity to provide one–on–one counseling services;
5 6 7	(ii) plans for holding seminars in every county of the State to provide information regarding eligibility for and available benefits under the programs established under subsections (d), (e), and (f) of this section;
8 9	(iii) plans for providing access to a web-based overview and interactive website that provide information on:
10	1. Medicare prescription drug benefit plans; and
$\begin{array}{c} 11 \\ 12 \end{array}$	2. subsidy and financial assistance programs for low–income individuals; and
13 14	(iv) plans for providing a toll-free hotline for reporting issues and concerns regarding the services provided in accordance with this paragraph.
$\begin{array}{c} 15\\ 16 \end{array}$	(i) Subject to the requirements of § 13–108 of the State Finance and Procurement Article, the Department may make an emergency procurement for:
17	(1) staff required to carry out the provisions of this section; and
18 19	(2) a third party to administer health reimbursement accounts established under this section.
20 21 22 23	(j) The Department shall submit quarterly reports to the Governor and, in accordance with § $2-1257$ of the State Government Article, the House Appropriations Committee, the Senate Budget and Taxation Committee, and the Joint Committee on Pensions, on:
$\begin{array}{c} 24 \\ 25 \end{array}$	(1) the status of establishing the programs under subsections (d), (e), and (f) of this section, including:
$\begin{array}{c} 26 \\ 27 \end{array}$	(i) the status of procuring any contracts necessary to operate the programs; and
28 29 30	(ii) the prescription drugs determined to qualify for reimbursement under the Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program under subsection (f) of this section;
$\frac{31}{32}$	(2) the availability of one-on-one counseling services required under subsection (h) of this section;

$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	-	e with	etails of the health reimbursement accounts or other programs to prescription drug costs for individuals enrolled in the programs , and (f) of this section, including:		
4		(i)	the specific out-of-pocket costs eligible for reimbursement;		
5		(ii)	the required process for receiving reimbursement;		
6		(iii)	the method of reimbursement;		
7		(iv)	the timing of reimbursement; and		
8 9	convenient and eff	(v) licient 1	a plan to use debit cards to process reimbursements in a manner; and		
10 11	(4) in total and by category for the previous quarter, the number of issues and concerns reported to the hotline.				
$\begin{array}{c} 12\\ 13 \end{array}$	(k) The Department shall adopt regulations to implement the provisions of this section.]				
14	Chapter 767 of the Acts of 2019				
15 16 17 18	provision of law, if the final resolution of the injunction issued in the U.S. District Court for the District of Maryland in Fitch v. State of Maryland et al, Case No. 1:18				
$19 \\ 20 \\ 21$	open enrollment period, the following shall begin on the first day of the second State health				
$22 \\ 23 \\ 24 \\ 25$	Medicare–eligible retirees, Medicare–eligible spouses or surviving spouses of retirees, and Medicare–eligible dependent children or surviving dependent children of retirees under §				
26 27 28 29 30	Assistance Progra Assistance Program	m, and m in § 2	the establishment of the Maryland State Retiree Prescription n, the Maryland State Retiree Catastrophic Prescription Drug I the Maryland State Retiree Life–Sustaining Prescription Drug 2–509.1(d), (e), and (f) of the State Personnel and Pensions Article, by Section 1 of this Act; and		
31 32 33	2–509.1(g) of the S or	(iii) State Po	the provision of written certified notice to individuals under § ersonnel and Pensions Article, as enacted by Section 1 of this Act;		

8

1 (2) 9 months or more before the first day of the next State health benefits 2 open enrollment period, the following shall begin on the first day of the State health 3 benefits plan year immediately following the resolution following the next open enrollment 4 period:

5 (i) the elimination of the State prescription drug benefits for 6 Medicare–eligible retirees, Medicare–eligible spouses or surviving spouses of retirees, and 7 Medicare–eligible dependent children or surviving dependent children of retirees under § 8 2–509.1(b) of the State Personnel and Pensions Article;

9 (ii) the establishment of the Maryland State Retiree Prescription 10 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug 11 Assistance Program, and the Maryland State Retiree Life–Sustaining Prescription Drug 12 Assistance Program in § 2–509.1(d), (e), and (f) of the State Personnel and Pensions Article, 13 respectively, as enacted by Section 1 of this Act; and

(iii) the provision of written certified notice to individuals under §
 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.]

16 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General 17Assembly that the Department of Budget and Management establish the Maryland State 18 Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic 19 Prescription Drug Assistance Program, and the Maryland State Retiree Life-Sustaining 20Prescription Drug Assistance Program in § 2–509.1(d), (e), and (f) of the State Personnel 21and Pensions Article, respectively, in a manner that allows retirees to access 22reimbursement at the time of prescription drug purchase, through a mechanism such as 23debit cards.]

[SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Budget and Management attend at least one meeting each year of the Joint Committee on Pensions to update the Committee on implementation of the provisions of this Act.]

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 29 1, 2022.