

SENATE BILL 884

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CF HB 1042

By: **Senator Klausmeier**

Introduced and read first time: February 3, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Prescription Drug Benefits – Retiree Benefits – Revisions**

3 FOR the purpose of altering the date on which the State shall discontinue certain
4 prescription drug benefits to certain persons if a certain event occurs; altering the
5 date by which the Department of Budget and Management is required to establish
6 certain retiree prescription drug coverage programs; altering the eligibility criteria
7 for participation in the retiree prescription drug coverage programs; altering the list
8 of recipients to whom the Secretary of Budget and Management is required to send
9 a certain notice of changes in a certain prescription drug benefit plan; and generally
10 relating to the State prescription drug benefits for retirees.

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 2–509.1
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2019 Supplement)

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

18 **Article – State Personnel and Pensions**

19 2–509.1.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(i) a retiree may elect to cover the retiree's spouse or dependent child under the State prescription drug benefit plan under §§ 2-508 and 2-509 of this 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.

(b) Except as provided in [subsection (c)] **SUBSECTIONS (C), (D), (E), AND (F)** of this section, [on January 1, 2019,] **FOR ANY PLAN YEAR FOLLOWING THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD FOLLOWING 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 CV-0287-PM(D.MD), IF THE STATE PREVAILS,** the State shall discontinue prescription drug benefits for:

(1) a Medicare-eligible retiree;

(2) the Medicare-eligible spouse or surviving spouse of a retiree; and

(3) a Medicare-eligible dependent child or surviving dependent child of a retiree.

(c) (1) 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.

(2) If the 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, but is not eligible to participate in the prescription drug benefit plan under Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State prescription drug benefit plan.

(d) (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:

(i) who is enrolled in a prescription drug benefit plan under Medicare; **AND**

(ii) if the retiree:

1. BEGAN STATE SERVICE ON OR BEFORE JUNE 30,

1 **2011;**

2 **2.** is retired [on or before December 31, 2019] **BEFORE THE**
3 **FIRST DAY OF THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD DESCRIBED**
4 **IN SUBSECTION (B) OF THIS SECTION;** and

5 [(iii)] **3.** [if the retiree] is eligible under § 2–508 or § 2–509 of this
6 subtitle to enroll and participate in the health insurance benefit options established under
7 the Program.

8 (2) (i) Subject to subparagraph (ii) of this paragraph, [on or before
9 January 1, 2020,] **BEFORE THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN**
10 **ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION,** the
11 Department shall establish a Maryland State Retiree Prescription Drug Coverage Program
12 that reimburses a participant for out-of-pocket costs that exceed the limits established for
13 non-Medicare-eligible retirees in § 2–508(d)(2)(iii) of this subtitle.

14 (ii) The Department may establish an out-of-pocket limit higher
15 than the limits established in subparagraph (i) of this paragraph for a retiree who qualifies
16 for a partial State subsidy.

17 (3) The Maryland State Retiree Prescription Drug Coverage Program
18 established under paragraph (2) of this subsection may include:

19 (i) a health reimbursement account established in accordance with
20 § 105(h) of the Internal Revenue Code; or

21 (ii) another program that provides assistance with prescription drug
22 costs.

23 (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's
24 dependent child or surviving dependent child may enroll in the Maryland State Retiree
25 Prescription Drug Coverage Program during the open enrollment period or any special
26 enrollment period for retiree health insurance benefit options.

27 (e) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
28 spouse, and a retiree's dependent child or surviving dependent child:

29 (i) who is enrolled in a prescription drug benefit plan under
30 Medicare; and

31 (ii) if the retiree:

32 1. **A.** began State service on or before June 30, 2011, **AND**
33 **IS RETIRED ON OR AFTER THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN**
34 **ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION; OR**

B. BEGAN STATE SERVICE ON OR AFTER JULY 1, 2011;**AND**

2. [retired on or after January 1, 2020; and

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.

(2) (i) Subject to subparagraph (ii) of this paragraph, [on or before January 1, 2020,] **BEFORE THE FIRST DAY OF THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION**, 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.

(ii) The Department may establish a maximum reimbursement amount for a retiree who qualifies for a partial State subsidy.

(3) The Maryland State Retiree Catastrophic Prescription Drug Assistance Program under paragraph (2) of this subsection may provide reimbursements through:

(i) a health reimbursement account established in accordance with § 105(h) of the Internal Revenue Code; or

(ii) another program that provides assistance with prescription drug costs.

(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.

(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:

(i) who is enrolled in:

1. the Maryland State Retiree Prescription Drug Coverage Program established under subsection (d) of this section; or

2. the Maryland State Retiree Catastrophic Prescription Drug Assistance Program established under subsection (e) of this section; and

(ii) if the retiree is eligible under § 2–508 or § 2–509 of this subtitle

1 to enroll and participate in the health insurance benefit options established under the
2 Program.

3 (2) (i) [On or before January 1, 2020,] **BEFORE THE FIRST DAY OF**
4 **THE SECOND STATE BENEFIT OPEN ENROLLMENT PERIOD DESCRIBED IN**
5 **SUBSECTION (B) OF THIS SECTION**, the Department shall establish a Maryland State
6 Retiree Life–Sustaining Prescription Drug Assistance Program that reimburses a
7 participant for out–of–pocket costs for a life–sustaining prescription drug that is:

8 1. covered by the prescription drug benefit plan in the health
9 insurance benefit options established under the Program; and

10 2. not covered by the prescription drug benefit plan under
11 Medicare in which the participant is enrolled.

12 (ii) The Department shall develop a list of the prescription drugs
13 that qualify for reimbursement under subparagraph (i) of this paragraph.

14 (iii) The Department may establish maximum reimbursement
15 amounts for a retiree who qualifies for a partial State subsidy.

16 (3) The Maryland State Retiree Life–Sustaining Prescription Drug
17 Assistance Program established under paragraph (2) of this subsection may provide
18 reimbursements through:

19 (i) a health reimbursement account established in accordance with
20 § 105(h) of the Internal Revenue Code; or

21 (ii) another program that provides assistance with prescription drug
22 costs.

23 (4) A retiree, a retiree’s spouse or surviving spouse, and a retiree’s
24 dependent child or surviving dependent child shall be automatically enrolled in the
25 Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program on
26 enrollment in:

27 (i) the Maryland State Retiree Prescription Drug Coverage Program
28 established under subsection (d) of this section; or

29 (ii) the Maryland State Retiree Catastrophic Prescription Drug
30 Assistance Program established under subsection (e) of this section.

31 (g) (1) Subject to paragraph (2) of this subsection, not later than July 1 of each
32 year, the Secretary shall provide written certified notice of the [change] **CHANGES** in the
33 State prescription drug benefit plan under this section to the individuals who will [become]
34 **BE** eligible [in the next calendar year] to enroll in the:

- 1 (i) Maryland State Retiree Prescription Drug Coverage Program;
- 2 (ii) Maryland State Retiree Catastrophic Prescription Drug
3 Assistance Program; or
- 4 (iii) Maryland State Retiree Life–Sustaining Prescription Drug
5 Assistance Program.

6 (2) The notice shall include information regarding:

- 7 (i) coverage options available in the Medicare prescription drug
8 benefit plan, including options that are similar to the prescription drug benefit plan in the
9 health insurance benefit options established under the Program;
- 10 (ii) the potential for significant penalties if an individual does not
11 promptly choose a Medicare prescription drug benefit plan immediately on termination of
12 the individual’s participation in the State prescription drug benefit plan;
- 13 (iii) the programs available under subsections (d), (e), and (f) of this
14 section; and
- 15 (iv) any additional resources made available by the Department in
16 accordance with this section.

17 (h) (1) The Department shall ensure Medicare–eligible retirees have access to
18 one–on–one counseling services to assist retirees in selecting a Medicare prescription drug
19 benefit plan.

20 (2) The Department shall develop a plan to communicate to
21 Medicare–eligible retirees the availability of:

- 22 (i) the programs under subsections (d), (e), and (f) of this section;
23 and
- 24 (ii) services and information regarding prescription drug benefit
25 plans under Medicare.

26 (3) On or before December 31, 2019, the Department shall submit a report
27 to the Senate Budget and Taxation Committee and the House Appropriations Committee,
28 in accordance with § 2–1257 of the State Government Article, on the plan developed under
29 paragraph (2) of this subsection.

30 (4) The report required under paragraph (3) of this subsection shall
31 include:

- 32 (i) options for providing one–on–one counseling, including:

1. in-person, over-the-phone, or web-based counseling;

2. the times at which one-on-one counseling will be available;

3. a plan to ensure equitable geographic access to one-on-one counseling; and

4. entering into a statewide contract with an employee benefits administrator or similar entity to provide one-on-one counseling services;

(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;

(iii) plans for providing access to a web-based overview and interactive website that provide information on:

1. Medicare prescription drug benefit plans; and

2. subsidy and financial assistance programs for low-income individuals; and

(iv) plans for providing a toll-free hotline for reporting issues and concerns regarding the services provided in accordance with this paragraph.

(i) Subject to the requirements of § 13-108 of the State Finance and Procurement Article, the Department may make an emergency procurement for:

(1) staff required to carry out the provisions of this section; and

(2) a third party to administer health reimbursement accounts established under this section.

(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:

(1) the status of establishing the programs under subsections (d), (e), and (f) of this section, including:

(i) the status of procuring any contracts necessary to operate the programs; and

(ii) the prescription drugs determined to qualify for reimbursement

1 under the Maryland State Retiree Life–Sustaining Prescription Drug Assistance Program
2 under subsection (f) of this section;

3 (2) the availability of one–on–one counseling services required under
4 subsection (h) of this section;

5 (3) the details of the health reimbursement accounts or other programs to
6 provide assistance with prescription drug costs for individuals enrolled in the programs
7 under subsections (d), (e), and (f) of this section, including:

8 (i) the specific out–of–pocket costs eligible for reimbursement;

9 (ii) the required process for receiving reimbursement;

10 (iii) the method of reimbursement;

11 (iv) the timing of reimbursement; and

12 (v) a plan to use debit cards to process reimbursements in a
13 convenient and efficient manner; and

14 (4) in total and by category for the previous quarter, the number of issues
15 and concerns reported to the hotline.

16 (k) The Department shall adopt regulations to implement the provisions of this
17 section.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2020.