

HOUSE BILL 1230

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By: **Delegates Boteler, Chisholm, Corderman, Cox, Grammer, Malone, McComas, and Szeliga**

Introduced and read first time: February 7, 2020

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

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
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; repealing the Maryland State Retiree Catastrophic Prescription Drug
10 Assistance Program; repealing the Maryland State Retiree Life–Sustaining
11 Prescription Drug Assistance Program; repealing a requirement that the Secretary
12 of Budget and Management provide a certain notice; repealing a requirement that
13 the Department of Budget and Management ensure Medicare–eligible retirees have
14 access to certain services; repealing a requirement that the Department submit
15 certain reports; repealing a requirement that the Department adopt certain
16 regulations; making conforming changes; repealing provisions of law made obsolete
17 by this Act; and generally relating to State prescription drug benefits for retirees
18 from State employment.

19 BY repealing and reenacting, with amendments,
20 Article – State Personnel and Pensions
21 Section 2–509.1
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2019 Supplement)

24 BY repealing
25 Chapter 767 of the Acts of the General Assembly of 2019
26 Section 2, 4, and 5

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – State Personnel and Pensions**

3 2–509.1.

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

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

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

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

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

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

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

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

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

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

31 [(2)] (II) If the surviving spouse or surviving dependent child of a retiree
32 is eligible to enroll in the State prescription drug benefit plan under § 2–508 or § 2–509 of
33 this subtitle, but is not eligible to participate in the prescription drug benefit plan under

1 Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State
2 prescription drug benefit plan.

3 [(d) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
4 spouse, and a retiree's dependent child or surviving dependent child:

5 (i) who is enrolled in a prescription drug benefit plan under
6 Medicare;

7 (ii) if the retiree is retired on or before December 31, 2019; and

8 (iii) if the retiree is eligible under § 2-508 or § 2-509 of this subtitle
9 to enroll and participate in the health insurance benefit options established under the
10 Program.

11 (2) (i) Subject to subparagraph (ii) of this paragraph, on or before
12 January 1, 2020, the Department shall establish a Maryland State Retiree Prescription
13 Drug Coverage Program that reimburses a participant for out-of-pocket costs that exceed
14 the limits established for non-Medicare-eligible retirees in § 2-508(d)(2)(iii) of this
15 subtitle.

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

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

21 (i) a health reimbursement account established in accordance with
22 § 105(h) of the Internal Revenue Code; or

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

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

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

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

33 (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

3 3. is eligible under § 2–508 or § 2–509 of this subtitle to enroll
4 and participate in the health insurance benefit options established under the Program.

5 (2) (i) Subject to subparagraph (ii) of this paragraph, on or before
6 January 1, 2020, the Department shall establish a Maryland State Retiree Catastrophic
7 Prescription Drug Assistance Program that reimburses a participant for out-of-pocket
8 costs after the participant has entered catastrophic coverage under a prescription drug
9 benefit plan under Medicare.

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

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

14 (i) a health reimbursement account established in accordance with
15 § 105(h) of the Internal Revenue Code; or

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

18 (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's
19 dependent child or surviving dependent child may enroll in the Maryland State Retiree
20 Catastrophic Prescription Drug Assistance Program during the open enrollment period or
21 any special enrollment period for retiree health insurance benefit options.

22 (f) (1) This subsection applies only to a retiree, a retiree's spouse or surviving
23 spouse, and a retiree's dependent child or surviving dependent child:

24 (i) who is enrolled in:

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

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

29 (ii) if the retiree is eligible under § 2–508 or § 2–509 of this subtitle
30 to enroll and participate in the health insurance benefit options established under the
31 Program.

32 (2) (i) On or before January 1, 2020, the Department shall establish a
33 Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program that

1 reimburses a participant for out-of-pocket costs for a life-sustaining prescription drug that
2 is:

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

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

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

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

11 (3) The Maryland State Retiree Life-Sustaining Prescription Drug
12 Assistance Program established under paragraph (2) of this subsection may provide
13 reimbursements through:

14 (i) a health reimbursement account established in accordance with
15 § 105(h) of the Internal Revenue Code; or

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

18 (4) A retiree, a retiree's spouse or surviving spouse, and a retiree's
19 dependent child or surviving dependent child shall be automatically enrolled in the
20 Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program on
21 enrollment in:

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

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

26 (g) (1) Subject to paragraph (2) of this subsection, not later than July 1 of each
27 year, the Secretary shall provide written certified notice of the change in the State
28 prescription drug benefit plan under this section to the individuals who will become eligible
29 in the next calendar year to enroll in the:

30 (i) Maryland State Retiree Prescription Drug Coverage Program;

31 (ii) Maryland State Retiree Catastrophic Prescription Drug
32 Assistance Program; or

33 (iii) Maryland State Retiree Life-Sustaining Prescription Drug

1 Assistance Program.

2 (2) The notice shall include information regarding:

3 (i) coverage options available in the Medicare prescription drug
4 benefit plan, including options that are similar to the prescription drug benefit plan in the
5 health insurance benefit options established under the Program;

6 (ii) the potential for significant penalties if an individual does not
7 promptly choose a Medicare prescription drug benefit plan immediately on termination of
8 the individual's participation in the State prescription drug benefit plan;

9 (iii) the programs available under subsections (d), (e), and (f) of this
10 section; and

11 (iv) any additional resources made available by the Department in
12 accordance with this section.

13 (h) (1) The Department shall ensure Medicare-eligible retirees have access to
14 one-on-one counseling services to assist retirees in selecting a Medicare prescription drug
15 benefit plan.

16 (2) The Department shall develop a plan to communicate to
17 Medicare-eligible retirees the availability of:

18 (i) the programs under subsections (d), (e), and (f) of this section;
19 and

20 (ii) services and information regarding prescription drug benefit
21 plans under Medicare.

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

26 (4) The report required under paragraph (3) of this subsection shall
27 include:

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

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

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

32 3. a plan to ensure equitable geographic access to

1 one-on-one counseling; and

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

4 (ii) plans for holding seminars in every county of the State to provide
5 information regarding eligibility for and available benefits under the programs established
6 under subsections (d), (e), and (f) of this section;

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

9 1. Medicare prescription drug benefit plans; and

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

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

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

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

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

19 (j) The Department shall submit quarterly reports to the Governor and, in
20 accordance with § 2-1257 of the State Government Article, the House Appropriations
21 Committee, the Senate Budget and Taxation Committee, and the Joint Committee on
22 Pensions, on:

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

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

27 (ii) the prescription drugs determined to qualify for reimbursement
28 under the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program
29 under subsection (f) of this section;

30 (2) the availability of one-on-one counseling services required under
31 subsection (h) of this section;

32 (3) the details of the health reimbursement accounts or other programs to

1 provide assistance with prescription drug costs for individuals enrolled in the programs
2 under subsections (d), (e), and (f) of this section, including:

3 (i) the specific out-of-pocket costs eligible for reimbursement;

4 (ii) the required process for receiving reimbursement;

5 (iii) the method of reimbursement;

6 (iv) the timing of reimbursement; and

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

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

11 (k) The Department shall adopt regulations to implement the provisions of this
12 section.]

13 Chapter 767 of the Acts of 2019

14 [SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other
15 provision of law, if the final resolution of the injunction issued in the U.S. District Court
16 for the District of Maryland in *Fitch v. State of Maryland et al*, Case No. 1:18
17 CV-0287-PM (D. Md.) occurs on a date that is:

18 (1) less than 9 months before the first day of the next State health benefits
19 open enrollment period, the following shall begin on the first day of the second State health
20 benefits plan year immediately following the resolution:

21 (i) the elimination of the State prescription drug benefits for
22 Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and
23 Medicare-eligible dependent children or surviving dependent children of retirees under §
24 2-509.1(b) of the State Personnel and Pensions Article;

25 (ii) the establishment of the Maryland State Retiree Prescription
26 Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug
27 Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug
28 Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article,
29 respectively, as enacted by Section 1 of this Act; and

30 (iii) the provision of written certified notice to individuals under §
31 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act;
32 or

33 (2) 9 months or more before the first day of the next State health benefits

1 open enrollment period, the following shall begin on the first day of the State health
2 benefits plan year immediately following the resolution following the next open enrollment
3 period:

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

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

13 (iii) the provision of written certified notice to individuals under §
14 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.]

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2020.