



MARYLAND
DEPARTMENT OF
BUDGET & MANAGEMENT

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

January 21, 2020

The Honorable Larry Hogan
Governor of Maryland
State House
100 State Circle
Annapolis MD 21401

Senator Guy Guzzone
Chair
Senate Budget and Taxation Committee
3 West Miller Senate Office Building
11 Bladen Street
Annapolis MD 21401

Delegate Maggie McIntosh
Chair
House Appropriations Committee
121 House Office Building
6 Bladen Street
Annapolis MD 21401

Senator Sarah Elfreth
Chair
Joint Committee on Pensions
220 James Senate Office Building
11 Bladen Street
Annapolis MD 21401

Delegate Ben Barnes
Chair
Joint Committee on Pensions
151 House Office Building
6 Bladen Street
Annapolis MD 21401

Dear Governor Hogan, Senator Guzzone, Delegate McIntosh, Senator Elfreth, and Delegate Barnes:

Chapter 767 of 2019 (State Prescription Drug Benefits – Retiree Benefits – Revisions) requires the Department to submit quarterly reports to the Governor, House Appropriations Committee, Senate Budget and Taxation Committee, and the Joint Committee on Pensions on the:

1. status of establishing the Maryland State Retiree Prescription Drug Coverage Program, Maryland State Retiree Catastrophic Prescription Drug Assistance Program, and Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program, including:
 - a. the status of procuring any contracts necessary to operate the programs, and

- b. the prescription drugs determined to qualify for reimbursement under the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program;
2. availability of one-on-one counseling services for Medicare-eligible retirees to assist retirees in selecting a Medicare prescription drug benefit plan;
3. details of the health reimbursement accounts (HRA) or other programs to provide assistance with prescription drug costs in the three prescription drug assistance programs, including
 - a. the specific out-of-pocket costs eligible for reimbursement,
 - b. the required process for receiving reimbursement,
 - c. the method of reimbursement,
 - d. the timing of reimbursement, and
 - e. a plan to use debit cards to process reimbursements in a convenience and efficient manner, and
4. in total and by category for the previous quarter, the number of issues and concerns reported to the hotline.

As you know, the Department is enjoined from terminating State prescription drug benefits coverage for Medicare-eligible retirees and implementing the provisions of Chapter 767 of 2019 until further order of the U.S. District Court in *Fitch v. State of Maryland, et al.*

Litigation Update. On September 5, 2019, the court in *Fitch* ordered Plaintiffs to amend their Complaint to take into account the provisions of Chapter 767. Plaintiffs then filed a motion to expand the preliminary injunction to prevent the State from implementing the December 31, 2019 statutory retirement deadline under Chapter 767, for purposes of being eligible for the Maryland State Retiree Prescription Drug Program. The American Federation of State, County and Municipal Employees (“AFSCME”) subsequently filed a motion to intervene in the case on behalf of its members and moved in support of Plaintiffs’ motion to expand the preliminary injunction.

On December 10, 2019, the Court denied the motion to expand the preliminary injunction by preventing the December 31, 2019 retirement deadline for the Maryland State Retiree Prescription Drug Program. The court, however, granted AFSCME’s motion to intervene. The next hearing in *Fitch* is not anticipated to occur before May or June 2020.

The State Defendants are scheduled to respond to the amended complaint and complaint in intervention by March 2, 2020. No further hearings are scheduled at this time and discovery has not yet begun.

Update on December 31, 2019 Retirements. Information obtained from the State Retirement Agency indicates that overall retirements for 2019 was less than the three prior years, even though the December 2019 and January 2020 retirements were up over the prior years. There was no mass exodus of State employees leaving the workforce to take advantage of the provisions in Chapter 767.

Retirement Year (CY)	Total Retirements
2016	3,286
2017	3,312
2018	3,033
2019	2,840

Retirement Month	Retirement Year	Total Retirements
November	2017	206
December	2017	223
January	2018	456
		885
November	2018	186
December	2018	186
January	2019	421
		783
November	2019	209
December	2019	390
January	2020	461
		1,060

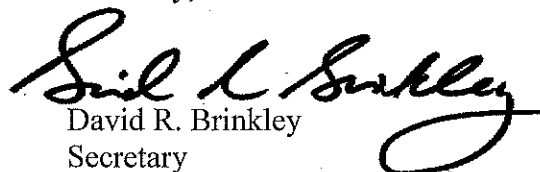
NOTE: These counts include employees who retired directly from employment, as well as those who may have been separated for several years and just reached the normal retirement age for their system of participation.

Outreach and Communications Plan. The Department has also submitted, as required by Chapter 767, a December 31, 2019 one-time report to the Senate Budget and Taxation Committee and the House Appropriations Committee regarding an outreach and communications plan directed at retirees to assist in navigating selection of Medicare Part D plans and eligibility for the three new prescription drug assistance programs.

Chapter 767 recognized the ongoing litigation and, therefore, provides sufficient time for the Department to implement the programs once, and if, the lawsuit is resolved in the State's favor. For these reasons, it is premature to discuss the implementation of other program elements.

To comply with Chapter 767, the Department will submit quarterly reports on April 15, 2020, July 15, 2020, and October 15, 2020.

Sincerely,


David R. Brinkley
Secretary

cc: Victoria Gruber, Department of Legislative Services