



LARRY HOGAN  
*Governor*

BOYD K. RUTHERFORD  
*Lieutenant Governor*

DAVID R. BRINKLEY  
*Secretary*

MARC L. NICOLE  
*Deputy Secretary*

July 15, 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

Senator Sarah Elfreth  
Chair  
Joint Committee on Pensions  
220 James 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

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.*

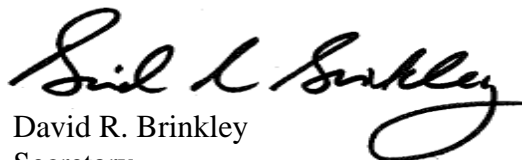
**Litigation Update.** The litigation remains in its preliminary stages. Plaintiffs have amended the complaint several times, most recently on June 30, 2020, adding the Treasurer, the Comptroller and the State Retirement System Board as additional State defendants and adding claims related to the budget as described below. This most recent amendment has necessitated an update to the briefing schedule, which has not yet been set. It is unlikely that a hearing on the motion to dismiss would be held before the end of September.

On June 23, 2020, Plaintiffs filed a motion to show cause asserting that the State violated the preliminary injunction when the General Assembly suspended the “sweeper” provision for this year, which would originally have moved surplus funding up to \$25 million, if it existed, into the Postretirement Health Benefits Trust Fund. Defendants responded on July 7, 2020. At a recent status conference, the Court indicated that no hearing would be held on this motion and that a written decision could be expected after briefing is completed.

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 element.

To comply with Chapter 767, the Department will submit quarterly reports on October 15, 2020, January 15, 2021, and April 15, 2021.

Sincerely,

  
David R. Brinkley  
Secretary

cc: Victoria Gruber, Department of Legislative Services