



LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor

DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

October 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

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 convenient and efficient manner, and
4. in total and by category for the previous quarter, the number of issues and concerns reported to the hotline.

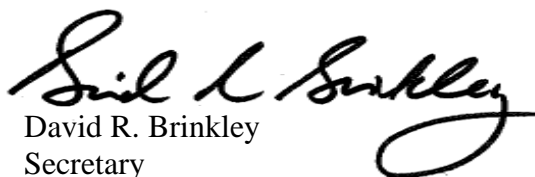
As you know, the Department is enjoined from terminating State prescription drug benefits coverage for Medicare-eligible retirees and implementing the provisions of Chapter 767 of 2019 until further order of the U.S. District Court in *Fitch v. State of Maryland, et al.*

Litigation Update. 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. Prior to that, 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. The Court denied that motion, ruling that there was no such violation. At this juncture, fully briefed and pending before the Court is the State Defendants' motion to dismiss the amended complaints. The Court has not yet called for a hearing on the motion to dismiss. If the motion does not succeed, the Court would likely enter a discovery schedule.

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 January 15, 2021, April 15, 2021, and July 15, 2021.

Sincerely,


David R. Brinkley
Secretary

cc: Victoria Gruber, Department of Legislative Services