

Subtitle 01 Prescription Drug Affordability Board

Chapter .02 Prescription Drug Affordability Fund

.02 Invoice [Assessment of Entities], Exemption, Waiver [Notification of Assessment], and Collection [of Fees].

A. In each state fiscal year the Board shall issue an invoice to each entity identified in Health-General Article, §21-2C-11, Annotated Code of Maryland, and Regulation .03 of this chapter and collect an annual assessment. [The Board shall collect an annual assessment from the entities identified in Health-General Article, §21-2C-11, Annotated Code of Maryland, and specified in Regulation .03 of this chapter.]

B. Exemption from Assessment.

(1) An entity may request an exemption from the annual assessment by submitting a completed exemption form to the Board within 30 days of the Board transmitting the assessment invoice.

(2) The exemption form shall be executed under oath and attest that:

(a) the entity is not a qualifying entity as defined in COMAR 14.01.01 and Health Gen. § 21-2C-11(b)(1);

(b) the entity no longer does business in Maryland; or

(c) the entity is not subject to assessment for another reason with an explanation of that reason.

(3) The entity bears the burden of demonstrating it qualifies for the claimed exemption and shall submit additional documentation in support of the exemption request as required by the Board.

(4) While the exemption request is pending, payment of the assessment is deferred.

(5) The Board shall determine all requests for exemption promptly and may require additional documentation or information from the entity requesting an exemption. [No later than July 15, 2021, and July 15 of every year thereafter, the Board shall issue a notification to these entities of their obligation to pay the annual assessment.]

C. Waiver of Assessment.

(1) An entity that is otherwise subject to assessment because it meets the definition of a qualifying entity under COMAR 14.01.01 and Health Gen. § 21-2C-11(b)(1), may request a waiver of the annual assessment by submitting a completed waiver form to the Board within 30 days of the Board transmitting the assessment invoice.

(2) The waiver form shall be executed under oath and:

(a) attest that the Prescription Drug Affordability Fund Assessment exceeds 1% of the entity's Maryland revenue in a specified year; and

(b) be accompanied by supporting documentation for the specified year.

(3) The entity's Maryland revenue is based on:

(a) the entity's most recent completed tax year; and

(b) the entity's total Maryland revenue.

(4) Recommended supporting documentation includes verifiable evidence of the entity's Maryland revenue for the entity's most recent completed tax year, including, but not limited to, the entity's Maryland income tax return and supporting schedules.

(5) The entity bears the burden of demonstrating it qualifies for the claimed waiver and shall submit additional documentation in support of the exemption request as required by the Board.

(6) While the waiver request is pending, payment of the assessment is deferred.

(7) The Board shall determine all requests for waiver promptly and may require additional documentation or information from the entity requesting a waiver. [The Board shall issue invoices no later than October 1, 2021, and October 1 of every year thereafter.]

D. Collection and Penalties.

(1) Any invoice [bill] not paid within 30 days of the payment due date may be subject to an interest penalty to be determined and collected by the Board.

(2) In addition to any penalties the Board may impose on an entity that fails to pay the fee assessed by the Board in a timely manner, the Board may also refer an entity's delinquent account to the Department of Budget and Management's Central Collection Unit, pursuant to the procedures in State Finance and Procurement Article, Title 3, Subtitle 3, Annotated Code of Maryland, and COMAR 17.01.01.

[E. In addition to any penalties the Board may impose on an entity that fails to pay the fee assessed by the Board in a timely manner, the Board may also refer an entity's delinquent account to the Department of Budget and Management's Central Collection Unit, pursuant to the procedures in State Finance and Procurement Article, Title 3, Subtitle 3, Annotated Code of Maryland, and COMAR 17.01.01.

F. The Board shall waive the fee assessment upon request by an assessed entity, provided that entity demonstrates, through attestation and supporting documentation, that the fee assessment exceeds 1 percent of that entity's revenue earned in the State during the entity's preceding fiscal year.]

.03 Amount of Assessment.

A. Entities identified in Health-General Article, §21–2C–11, Annotated Code of Maryland, shall be subject to the following fee schedule:

(1) Manufacturers engaged in wholesale distribution, as defined in Health Occupations Article, §12–6C–01, Annotated Code of Maryland, shall pay an assessment of \$1,000;

(2) Wholesale distributors, as defined in Health Occupations Article, §12–6C–01, Annotated Code of Maryland, that distribute prescription drugs shall pay an assessment of \$1,000;

(3) Pharmacy benefits managers, as defined in Insurance Article, §15–1601, Annotated Code of Maryland, shall pay an assessment of \$1,000; and

(4) Carriers, as defined in Health-General Article, §19–132, Annotated Code of Maryland, shall pay an assessment of \$1,000.

B. An entity may request to pay the annual assessment in installments by submitting a letter to the Board demonstrating significant financial hardship in paying the assessment in a single payment. [As provided for in Regulation .02 of this chapter, upon demonstration that the fee assessment exceeds 1 percent of that entity’s revenue in the State during their preceding fiscal year, the Board shall waive the fee assessment for that year.]

.04 Use of Funds.

A. The Fund may only be used to finance the operation of the Board, as permitted in Health-General Article, §21–2C–11(c)(6), Annotated Code of Maryland.

B. Interest earned from the monies collected through the assessment in Regulation .02 of this chapter shall be retained to the credit of the Fund.

.05 Surplus Funds.

If the amount of assessed funds collected in a calendar year exceeds the cap identified in Health-General Article, §21–2C–11(B)(4), the Board shall:

A. Issue a notice of such surplus; and

B. Remit the surplus funds in a fair and equitable manner across all qualifying entities that have paid the assessment.