SENATE BILL 236

Unofficial Copy 2001 Regular Session
J1 (1lr1775)

ENROLLED BILL

-- Finance and Budget and Taxation/Economic Matters and Environmental Matters --

Introduced by **Senators Miller, Bromwell, ~~and Sfikas~~ Sfikas, Astle, Blount, Colburn, Collins, Currie, DeGrange, Della, Dorman, Exum, Frosh, Green, Hafer, Hoffman, Hogan, Hollinger, Hooper, Jimeno, Kasemeyer, Kelley, Lawlah, Madden, McFadden, Middleton, Munson, Neall, Roesser, Ruben, Stoltzfus, Stone, ~~and Teitelbaum~~ Teitelbaum, and Forehand**

Read and Examined by Proofreaders:

_____
Proofreader.

_____
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____M.

_____
President.

CHAPTER 134

AN ACT concerning

~~**Maryland Health Care Foundation – Statewide Access to Free or Subsidized Maryland Prescription Pharmaceutical Products Drugs Access Enhancement Act of 2001**~~

Senior Prescription Drug Relief Act

~~FOR the purpose of requiring the Maryland Health Care Foundation to facilitate certain access to prescription pharmaceutical products drugs to certain persons in a certain manner; requiring the Foundation to ensure that the access provided under this Act is available in specified regions of the State; authorizing the Foundation to establish regional offices in certain locations; requiring the Foundation to use specified offices as regional offices for certain regions; authorizing the Foundation to establish a central office in a certain region; requiring the Governor to provide certain funding to the Foundation for certain~~

~~purposes; requiring that the funding required under this Act be appropriated directly to the Foundation; requiring the Foundation to use the funding required under this Act for certain purposes; providing for the termination of this Act; requiring the Foundation to study and examine certain issues and to provide certain reports by a certain date in a certain manner; establishing the Maryland Pharmacy Discount Program; requiring the Secretary of Health and Mental Hygiene to administer the Maryland Pharmacy Discount Program in a certain manner; providing for the purpose, eligibility, benefits, and mechanics of the Maryland Pharmacy Discount Program; authorizing the Department of Health and Mental Hygiene to recover certain costs; altering the eligibility requirements for the Maryland Pharmacy Assistance Program; expanding the scope of the Short-Term Prescription Drug Subsidy Plan; altering the contract term, reducing the premium, and increasing the maximum total annual benefit under the Plan; providing for a certain resetting of certain accumulated annual benefit amounts; altering the requirements and responsibilities of the carrier that serves the Plan; requiring the Department to submit an application for certain amendments to a certain Medicaid waiver for certain purposes; conditioning the implementation of certain provisions of this Act on the approval of a certain Medicaid waiver and on certain provisions of law and certain authorization by Act of the General Assembly; requiring the Department to conduct certain studies and to provide certain reports by certain dates in a certain manner; expressing the intent of the General Assembly that pharmacies participating in the Maryland Pharmacy Assistance Program be compensated for certain reductions in reimbursement; requiring the Department to develop a certain mechanism to allow the recovery of certain reductions in reimbursement by certain pharmacies under certain circumstances; requiring the Comptroller of the Treasury to conduct a certain study, in consultation with the Department, and to provide a certain report by a certain date in a certain manner; requiring the Secretary to adopt certain regulations for certain purposes by a certain date; requiring the Secretary and a certain carrier to modify a certain contract; requiring the Secretary to suspend the implementation or application of certain provisions of law under certain circumstances; requiring the Department of Aging to serve as a central point of referral for the general public for certain matters under certain circumstances; requiring the Department of Aging to provide a certain report by a certain date in a certain manner; providing for the funding of certain provisions of this Act under certain circumstances; providing for the contingent effect of certain provisions of this Act; providing for the termination of certain provisions of this Act under certain circumstances; providing for the delayed effect of certain provisions of this Act; providing for the delayed implementation of certain provisions of this Act; altering certain definitions; repealing certain definitions; and generally relating to the Foundation and statewide enhancement of access to prescription pharmaceutical products drugs in Maryland.~~

~~BY adding to~~
~~Article – Health – General~~
~~Section 15-103(d) and 15-124.1~~
~~Annotated Code of Maryland~~

~~(2000 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 15-124(a) and 15-601 through 15-603, inclusive~~
~~Annotated Code of Maryland~~
~~(2000 Replacement Volume)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:~~

~~(a) The Maryland Health Care Foundation shall, in a manner consistent with this section, facilitate access to free or subsidized prescription pharmaceutical products drugs for residents of the State who are eligible for assistance in obtaining prescription pharmaceutical products drugs;~~

~~(b) The Foundation shall ensure that the access provided under subsection (a) of this section is available to residents in:~~

~~(1) Western Maryland;~~

~~(2) the Eastern Shore;~~

~~(3) the Baltimore Metropolitan area;~~

~~(4) the Maryland counties in the Washington Suburban Metropolitan area; and~~

~~(5) Southern Maryland;~~

~~(c) Subject to subsection (d) of this section, the Foundation may establish a regional office in each of the regions identified in subsection (b) of this section;~~

~~(d) The Foundation shall use the Medbank of Maryland, Inc. and the Western Maryland Prescription Program as the regional offices for the Baltimore Metropolitan area and Western Maryland, respectively;~~

~~(e) The Foundation may establish a central office in any one of the regions identified in subsection (b) of this section;~~

~~(f) The Governor shall provide funding in the annual budget in an amount:~~

~~(1) sufficient to enable the Foundation to satisfy the requirements of this section; and~~

~~(2) not less than $12 million annually;~~

~~(g) The funding provided under subsection (f) of this section shall be appropriated directly to the Foundation; and~~

~~(h) The Foundation shall use the funding provided under subsection (f) of this section to satisfy the requirements of this section, including the establishment and maintenance of administrative infrastructure and the provision of short-term medication while applications for assistance are pending.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article - Health - General**~~

~~15-103.~~

~~(D) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE SECRETARY SHALL ADMINISTER THE MARYLAND PHARMACY DISCOUNT PROGRAM, ESTABLISHED UNDER § 15-124.1 OF THIS SUBTITLE, AS PART OF THE MARYLAND MEDICAL ASSISTANCE PROGRAM.~~

~~15-124.1.~~

~~(A) THERE IS A MARYLAND PHARMACY DISCOUNT PROGRAM WITHIN THE MARYLAND MEDICAL ASSISTANCE PROGRAM.~~

~~(B) THE PURPOSE OF THE MARYLAND PHARMACY DISCOUNT PROGRAM IS TO IMPROVE THE HEALTH STATUS OF MEDICARE ENROLLEES AND CERTAIN UNINSURED INDIVIDUALS WHO LACK PRESCRIPTION DRUG COVERAGE BY PROVIDING ACCESS TO LOWER COST, MEDICALLY NECESSARY PRESCRIPTION DRUGS.~~

~~(C) THE MARYLAND PHARMACY DISCOUNT PROGRAM SHALL BE ADMINISTERED AND OPERATED BY THE DEPARTMENT AS PERMITTED BY FEDERAL LAW OR WAIVER.~~

~~(D) THE MARYLAND PHARMACY DISCOUNT PROGRAM SHALL BE OPEN TO:~~

~~(1) MEDICARE ENROLLEES WHO ARE WITHOUT OTHER PUBLIC OR PRIVATE PRESCRIPTION DRUG COVERAGE; AND~~

~~(2) OTHER INDIVIDUALS WHO:~~

~~(I) HAVE AN ANNUAL HOUSEHOLD INCOME AT OR BELOW 300 PERCENT OF THE FEDERAL POVERTY GUIDELINES; AND~~

~~(II) DO NOT HAVE OTHER PUBLIC OR PRIVATE PRESCRIPTION DRUG COVERAGE.~~

~~(E) (1) ENROLLEES OF THE MARYLAND PHARMACY DISCOUNT PROGRAM SHALL BE ENTITLED TO PURCHASE MEDICALLY NECESSARY PRESCRIPTION DRUGS FROM ANY PHARMACY THAT PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AT A PRICE THAT IS EQUAL TO BASED ON THE PRICE PAID BY~~

~~THE MARYLAND MEDICAL ASSISTANCE PROGRAM, MINUS AMOUNTS ATTRIBUTABLE TO ANY FEDERALLY MANDATED MANUFACTURERS' REBATES.~~

~~(2) THE DEPARTMENT MAY ESTABLISH A MECHANISM TO RECOVER THE ADMINISTRATIVE COSTS OF THE MARYLAND PHARMACY DISCOUNT PROGRAM.~~

~~(F) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, AN INDIVIDUAL WHO MEETS THE OTHER ELIGIBILITY CRITERIA ESTABLISHED UNDER THIS SECTION AND ANY REGULATIONS ADOPTED IN ACCORDANCE WITH THIS SECTION MAY ENROLL IN THE MARYLAND PHARMACY DISCOUNT PROGRAM, IF THE INDIVIDUAL IS OR HAS BEEN:~~

~~(1) ENROLLED IN THE MARYLAND PHARMACY ASSISTANCE PROGRAM ESTABLISHED UNDER § 15-124 OF THIS SUBTITLE; OR~~

~~(2) A BENEFICIARY OF A FREE OR SUBSIDIZED PRESCRIPTION DRUG PROGRAM FACILITATED THROUGH THE MARYLAND HEALTH CARE FOUNDATION.~~

~~(G) TO THE EXTENT THAT AN INSTITUTIONAL PHARMACY SERVES PATIENTS IN HOSPITALS AND RESIDENTS IN NURSING HOMES, THE INSTITUTIONAL PHARMACY MAY NOT BE REQUIRED TO PARTICIPATE IN THE MARYLAND PHARMACY DISCOUNT PROGRAM.~~

~~(H) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE MARYLAND PHARMACY DISCOUNT PROGRAM.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article - Health - General**~~

~~15-124.~~

~~(a) (1) The Department shall maintain a Maryland Pharmacy Assistance Program for low income individuals whose:~~

~~(i) Assets are not more than [1.5] 3 times the amount of accountable resources according to the asset schedule of the Maryland Medical Assistance Program; and~~

~~(ii) Gross annual income does not exceed[:~~

~~1. $4,600 plus $500 for each individual over 1 in a family unit; and~~

~~2. An annual increase set by the Secretary under paragraph (2)(ii)4 of this subsection] 120 PERCENT OF THE FEDERAL POVERTY GUIDELINES.~~

~~(2) (i) 1. In this paragraph the following words have the meanings indicated.~~

~~2. "Income disregard" means the exclusion of up to $1,000 of annual income earned by an individual as a client of a sheltered workshop if the individual's sole other income is derived from a Social Security payment.~~

~~3. "Sheltered workshop" means a workshop licensed by the Developmental Disabilities Administration under Title 7, Subtitle 9 of this article.~~

~~(ii) For the purpose of paragraph (1) of this subsection, the Secretary shall:~~

~~1. In order to determine eligibility for the Maryland Pharmacy Assistance Program, deduct any income disregards from the countable gross income of a unit that contains a disabled individual;~~

~~2. Define excluded assets; AND~~

~~3. Establish a family unit structure[; and~~

~~4. Beginning July 1, 1985, increase annually at the time Social Security benefits are increased, rounded to the next highest even $50 level, the income level within which an individual is eligible for benefits under the Maryland Pharmacy Assistance Program by the larger of:~~

~~A. The percentage by which benefits under Title II of the Social Security Act (42 U.S.C. 401-433) are increased by the federal government due to cost-of-living changes as that percentage is reported in the Federal Register pursuant to 42 U.S.C. 415(I)(2)(D) but not to exceed 8 percent; or~~

~~B. The dollar amount by which the medical assistance income schedules are increased by the State].~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article - Health - General**~~

~~15-601.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(b) "Carrier" means:~~

~~(1) An authorized insurer;~~

~~(2) A nonprofit health service plan;~~

~~(3) A health maintenance organization;~~

~~(4) A managed care organization;~~

~~(5) A dental plan organization; or~~

~~(6) Any other person that provides health benefit plans subject to regulation by the State.~~

~~(c) "Eligible individual" means an individual who:~~

~~(1) Is a resident of Maryland and at least 65 years of age;~~

~~(2) Is eligible for Medicare Plus Choice, as defined under Title XVIII of the federal Social Security Act, as amended;~~

~~(3) [Resides in a medically underserved county or portion of a county;~~

~~(4)] Pays the premium for Medicare Part "B", as required by Title XVIII of the Social Security Act, as amended;~~

~~[(5)] (4) Is not enrolled in a Medicare Plus Choice managed care program that provides prescription drug benefits at the time that the individual applies for enrollment in the Plan; and~~

~~[(6)] (5) Pays the premium, co-payments, and deductibles for the Plan.~~

~~(d) "Enrollee" means an individual enrolled in the Plan.~~

~~(e) "Fund" means the Short-Term Prescription Drug Subsidy Plan Fund created under § 15-604 of this subtitle.~~

~~[(f) "Medically underserved county" means any of the following counties:~~

~~(1) Allegany County;~~

~~(2) Calvert County;~~

~~(3) Caroline County;~~

~~(4) Carroll County;~~

~~(5) Cecil County;~~

~~(6) Charles County;~~

~~(7) Dorchester County;~~

~~(8) Frederick County;~~

~~(9) Garrett County;~~

~~(10) Kent County;~~

~~(11) Queen Anne's County;~~

~~(12) St. Mary's County;~~

~~(13) Somerset County;~~

~~(14) Talbot County;~~

~~(15) Washington County;~~

~~(16) Wicomico County; or~~

~~(17) Worcester County.~~

~~(g) "Portion of a county" means a geographic part of a county not listed in subsection (f) of this section that was served by a Medicare Plus Choice managed care provider prior to January 1, 2000, and is no longer served.]~~

~~[(h)] (F) "Plan" means the Short-Term Prescription Drug Subsidy Plan established under this subtitle.~~

~~15-602.~~

~~(a) A carrier that is required to provide the Short-Term Prescription Drug Subsidy Plan under § 15-606(c) of the Insurance Article shall:~~

~~(1) Sign a contract with the Secretary agreeing to provide prescription drug benefits to eligible individuals for a period of at least [2 years] 1 YEAR;~~

~~(2) Except as otherwise required under State or federal law, agree not to alter the level or types of benefits provided under the Plan throughout the [2-year] 1-YEAR period of the contract;~~

~~(3) Agree to hold enrollee premiums at the same level throughout the [2-year] 1-YEAR contract period;~~

~~[(4) Agree to continue to serve at least the same medically underserved counties or portions of counties throughout the 2-year contract period;] and~~

~~[(5)] (4) Make all performance review and financial records available for review by the Secretary and the Maryland Insurance Administration.~~

~~(b) The carrier is not required, in providing the Plan, to offer any other benefit otherwise required under Title 19, Subtitle 7 of this article or Title 15, Subtitle 8 of the Insurance Article.~~

~~15-603.~~

~~(a) The Plan provided under this subtitle shall:~~

~~(1) Throughout the [2-year] 1-YEAR contract period, provide benefits to not more than 15,000 enrollees at any one time who are eligible individuals [and who reside in any of the medically underserved counties or portions of counties];~~

~~(2) Set the monthly premium charged an enrollee at [$40] $20;~~

~~(3) Set the deductible charged an enrollee at $50 per year per individual;~~

~~(4) Limit the co-pay charged an enrollee to:~~

~~(i) $10 for a prescription for a generic drug;~~

~~(ii) $20 for a prescription for a preferred brand name drug; and~~

~~(iii) $35 for a prescription for a nonpreferred brand name drug; and~~

~~(5) [Limit] SUBJECT TO SUBSECTION (D) OF THIS SECTION, LIMIT the total annual benefit to [$1,000] $1,200 per individual.~~

~~(b) The Plan may include a restricted formulary of experimental drugs not approved by the federal Food and Drug Administration for general use that will not be reimbursed.~~

~~(c) [(1) During the first 180 days of the operation of the Plan, the carrier may enroll only eligible individuals who were:~~

~~(i) Enrolled in Medicare Plus Choice managed care programs in medically underserved counties or portions of counties on or before December 31, 1999; and~~

~~(ii) After December 31, 1999, ceased to be enrolled in those plans.~~

~~(2) On and after the 181st day of the operation of the Plan, the carrier may enroll any eligible individual.~~

~~(3)] The carrier shall work with the Secretary and the Maryland Department of Aging to provide notice, through the written and electronic media and other means, to the eligible individuals [eligible for enrollment in the first 180 days of the operation of the Plan,] of the availability of the Plan [and of the enrollment preference to be granted].~~

~~(D) THE CARRIER, EFFECTIVE JULY 1, 2001 AND FOR THE YEAR BEGINNING ON JULY 1, 2001, FOR EACH ENROLLEE, SHALL DISREGARD, FOR THE PURPOSE OF CALCULATING THE ENROLLEE'S PROGRESS TOWARD THE TOTAL ANNUAL BENEFIT LIMIT, ALL BENEFIT AMOUNTS REALIZED UNDER THE PLAN THROUGH JUNE 30, 2001.~~

~~SECTION 2. SECTION 5. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene:~~

~~(a) (1) shall submit an application to the federal Health Care Financing Administration for an amendment to the State's existing § 1115 demonstration waiver necessary to implement the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article as enacted by Section 2 of this Act; and~~

~~(2) may comply with the requirements of paragraph (1) of this subsection by simultaneously applying for two separate amendments, as follows:~~

~~(i) one amendment establishing eligibility for the Medicare enrollees who are without other public or private prescription drug coverage; and~~

~~(ii) one amendment establishing eligibility for other individuals who have an annual household income at or below 300 percent of the federal poverty guidelines and do not have other public or private prescription drug coverage;~~

~~(b) shall include in its application or applications required under subsection (a) of this section provisions for the establishment of a pharmaceutical care management program, for individuals who will participate in the Maryland Pharmacy Discount Program, the objectives of which shall be to:~~

~~(1) improve the overall health condition of covered individuals;~~

~~(2) ensure that covered individuals are receiving necessary prescription medications, are not receiving multiple medications which are not adding to the overall improvement of the health conditions of the individuals, and are not taking multiple medications which by their interaction may cause harm; and~~

~~(3) ensure coordination between a covered individual's primary care provider, pharmacist, and other health care professionals in the delivery of pharmaceutical care;~~

~~(c) shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on the status of the application or applications required under subsection (a) of this section as soon as the Department receives final approval or denial, but not later than December 1, 2001; and~~

~~(d) if the Department receives approval for an application or applications required under subsection (a) of this section, may not implement the Maryland Pharmacy Discount Program established under Section 2 of this Act without authorization of the General Assembly, as expressed through an Act of the General Assembly.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall:~~

~~(a) study the feasibility of implementing a mechanism for providing discounts for prescription drugs under the Maryland Pharmacy Discount Program established under Section 2 of this Act that are larger than the discount provided under the Maryland Medical Assistance Program for individuals who are eligible for the Maryland Pharmacy Discount Program and whose annual household incomes are less than 300 percent of the federal poverty guidelines, such that the larger discounts are inversely related to the eligible individual's annual household income; and~~

~~(b) on or before December 1, 2001, report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on any findings and recommendations that result from the study required under subsection (a) of this section, including:~~

~~(1) the expected impact of implementing such a mechanism on participation in the Maryland Pharmacy Discount Program;~~

~~(2) whether federal funds could be used to finance such a mechanism;~~

~~(3) a recommendation on the appropriate financing of such a mechanism; and~~

~~(4) a cost-benefit analysis of any recommendations.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That:~~

~~(a) it is the intent of the General Assembly that a pharmacy that participates in the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article shall be compensated for reductions in reimbursement that result from its participation in the Maryland Pharmacy Discount Program; and~~

~~(b) the Department of Health and Mental Hygiene shall:~~

~~(1) develop a mechanism for a pharmacy that participates in the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article to recover reductions in reimbursement that result from participation in the Maryland Pharmacy Discount Program; and~~

~~(2) ensure the maximum use of federal funds that are available to accomplish the recovery of reductions in reimbursement required under paragraph (1) of this subsection.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That:~~

~~(a) the State Comptroller of the Treasury, in consultation with the Department of Health and Mental Hygiene, shall study the feasibility of providing a tax credit for catastrophic out-of-pocket prescription drug expenses;~~

~~(b) the study shall include a consideration of:~~

~~(1) eligibility thresholds, including income and other status factors, for qualification for a tax credit;~~

~~(2) the nature and scope of out-of-pocket expenses that would be considered in calculating a tax credit;~~

~~(3) the fiscal impact and cost-benefit analysis of a variety of sizes of tax credits; and~~

~~(4) whether a tax credit should be refundable; and~~

~~(c) (1) the Comptroller shall report on or before December 1, 2001 to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on any findings and recommendations; and~~

~~(2) if a recommendation for a tax credit is made, the Comptroller shall make a recommendation on the appropriate size, nature, and scope of the tax credit.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That:~~

~~(a) the Maryland Health Care Foundation shall examine methods to facilitate the purchase of prescription drugs through federally qualified health centers in Maryland to maximize the number of people who can benefit from the purchasing power of the federally qualified health centers, especially under available federal prescription drug pricing programs; and~~

~~(b) the Foundation shall, on or before December 1, 2001, report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on:~~

~~(1) the number and demographic characteristics, including area of residence, economic status, and insured status, of the individuals who would be eligible to utilize available prescription drug pricing programs through the federally qualified health centers in the State;~~

~~(2) the types of prescription drugs that are or could be available through available prescription drug pricing programs through the federally qualified health centers in the State;~~

~~(3) recommendations regarding:~~

~~(i) whether to pursue a method to maximize the potential of available prescription drug pricing programs through the federally qualified health centers in the State; and~~

~~(ii) if the recommendation under subparagraph (i) of this paragraph is affirmative:~~

~~1. the most appropriate method or methods to maximize the potential of available prescription drug pricing programs through the federally qualified health centers in the State;~~

~~2. the best option or options for financing any method or methods recommended under item 1 of this subparagraph; and~~

~~3. the nature and extent of outreach that should be performed to best inform eligible individuals of the ability to obtain prescription drugs through the federally qualified health centers in the State; and~~

~~(4) the cost-benefit analysis of any recommendations under paragraph (3)(ii) of this section.~~

~~SECTION 10. AND BE IT FURTHER ENACTED, That the Maryland Health Care Foundation shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly, and to the Governor, on or before December 1, 2001,~~

~~and annually thereafter, on its progress in fulfilling the obligations imposed in Section 1 of this Act, including:~~

~~(a) The number and demographic characteristics of the State residents served by the Foundation under this Act;~~

~~(b) The types and approximate value of prescription pharmaceutical products drugs accessed under this Act; and~~

~~(c) The nature and extent of outreach performed to inform State residents of the assistance available through the Foundation.~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall adopt regulations not later than June 30, 2001 to implement, effective July 1, 2001, the provisions of Section 4 of this Act.~~

~~SECTION 12. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene and the carrier that is required to provide the Short-Term Prescription Drug Subsidy Plan under § 15-606(c) of the Insurance Article shall agree, not later than June 30, 2001, to modify the contract required under Chapter 565 of the Acts of the General Assembly of 2000 to enable the implementation, effective July 1, 2001, of the provisions of Section 4 of this Act.~~

~~SECTION 13. AND BE IT FURTHER ENACTED, That, if the Secretary of Health and Mental Hygiene is notified by the federal Health Care Financing Administration that any provision of Section 4 of this Act will invalidate the Maryland Medicare Waiver or cause a reduction in the State's eligibility for federal funding of Medicaid, the Secretary may suspend the implementation or operation of the provision of Section 4 of this Act that is the subject of the notification.~~

~~SECTION 14. AND BE IT FURTHER ENACTED, That the Department of Aging shall:~~

~~(a) develop a mechanism for serving the general public as a central point of referral to the various forms of available assistance related to accessing prescription drugs in the State;~~

~~(b) in fulfilling its obligations under subsection (a) of this section, coordinate with all relevant public and private entities to maintain current and accurate information regarding eligibility, benefits, and requirements of all available programs and financial assistance that facilitate access to prescription drugs in the State; and~~

~~(c) on or before December 1, 2001 and annually thereafter, report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on the Department's progress in complying with the requirements of this section.~~

~~SECTION 15. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall adopt regulations not later than June 30, 2001 to implement, effective July 1, 2001, the provisions of Section 3 of this Act.~~

~~SECTION 16. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall study programs in other states that are similar to the Maryland Pharmacy Discount Program established under Section 2 of this Act to determine anticipated enrollment, cost, and utilization, and report, on or before December 1, 2001, to the Governor, and in accordance with § 2-1246 of the State Government Article, to the General Assembly on its findings.~~

~~SECTION 17. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Health and Mental Hygiene utilize not less than $12 million in additional funding to expand the Maryland Pharmacy Assistance Program. The Department of Health and Mental Hygiene shall report, on or before January 15, 2002, to the Governor, and in accordance with § 2-1246 of the State Government Article, to the General Assembly on:~~

~~(1) the increased costs resulting from the expansion required under Section 3 of this Act; and~~

~~(2) any recommendations for further expansion of the Maryland Pharmacy Assistance Program.~~

~~SECTION 16. 18. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect July 1, 2001. On the earlier of the end of June 30, 2002, or the availability of comparable prescription pharmacy benefits provided by Medicare under Title XVIII of the Social Security Act, as amended, with no further action required by the General Assembly, Section 4 of this Act shall be abrogated and of no further force and effect. If comparable prescription pharmacy benefits are provided by Medicare under Title XVIII of the Social Security Act, the Secretary of Health and Mental Hygiene shall notify the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 not later than 90 days before prescription drug benefits are to be provided.~~

~~SECTION 17. 19. AND BE IT FURTHER ENACTED, That for fiscal year 2002, the State Comptroller of the Treasury shall distribute to the Maryland Health Care Foundation the revenue collected as a result of the taking effect of Chapter _____ (H.B. 828) of the Acts of the General Assembly of 2001 in a manner to ensure that:~~

~~(a) (1) not less than 50,000 individuals will be served under Section 1 of this Act; but~~

~~(2) notwithstanding the goal specified in paragraph (1) of this subsection, the total distributed does not exceed $8 million; and~~

~~(b) the revenues collected are distributed to the Foundation until the level of funding required under subsection (a) of this section is achieved before distributions for any other purpose may be made.~~

~~SECTION 18. 20. AND BE IT FURTHER ENACTED, That Sections 1, 3, 10, and 17-19 of this Act shall take effect July 1, 2001, contingent on the taking effect of Chapter _____ (H.B. 828) of the Acts of the General Assembly of 2001, and if Chapter~~

~~_____ does not become effective, Sections 1, 3, 10, and 17-19 of this Act shall be null and void without the necessity of further action by the General Assembly.~~

~~SECTION 19. 21. AND BE IT FURTHER ENACTED, That Section 15 of this Act shall take effect June 1, 2001, contingent on the enactment of Chapter _____ (H.B. 828) of the Acts of the General Assembly of 2001, and, if Chapter _____ is not enacted, Section 15 of this Act shall be null and void without the necessity of further action by the General Assembly.~~

~~SECTION 3. 20. 22. AND BE IT FURTHER ENACTED, That Section 13 of this Act shall take effect July 1, 2001. It shall remain effective for a period of 3 years and, at the end of June 30, 2004, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~SECTION 21. 23. AND BE IT FURTHER ENACTED, That, except as provided in Sections 16, 18, 19, and 20 18, 20, 21, and 22 of this Act, this Act shall take effect June 1, 2001.~~

FOR the purpose of establishing certain prescription drug benefit programs; establishing eligibility criteria for certain prescription drug benefit programs; requiring the Department of Health and Mental Hygiene to administer and operate a certain program as permitted by federal law or waiver; providing for an exception to a certain eligibility limitation; authorizing the Department to establish certain mechanisms to recover certain administrative costs, to reimburse certain participating pharmacies, and to allow certain pharmacies to charge a certain processing fee; requiring the Secretary of Health and Mental Hygiene to adopt certain regulations; requiring the Department to apply for a certain waiver expansion to implement certain programs; requiring the Maryland Health Care Foundation to operate and administer a certain program; requiring the Foundation to contract with certain government or nonprofit organizations to operate and administer the program; specifying the funding for the program; authorizing certain funds to be spent on certain interim supplies of prescription drugs; requiring the Foundation to make the program available in each geographic region of the State; altering the eligibility requirements for the Short-Term Prescription Drug Subsidy Plan; altering certain definitions; repealing certain definitions; altering the conditions for a carrier to provide the subsidy plan; extending the duration of the subsidy plan; lowering the monthly premium under the subsidy plan; increasing the benefit limit under the subsidy plan; eliminating the deductible under the subsidy plan; expanding the total number of enrollees allowed under the subsidy plan; requiring a certain carrier to alter the calculation of certain benefits beginning on a certain date; requiring a certain carrier to submit a certain quarterly financial accounting to certain agencies; specifying the contents of the Short-Term Prescription Drug Subsidy Plan Fund; requiring a certain carrier to develop and implement a certain marketing plan; providing that the marketing plan must be submitted to and approved by the Insurance Commissioner; requiring the Department of Health and Mental Hygiene to develop and implement a certain outreach program; requiring the Department of Aging to perform certain outreach functions; making certain technical corrections; altering a certain contribution requirement for the

Fund; requiring the Health Services Cost Review Commission to transfer all funds assessed and collected under a certain plan to a certain fund; requiring the State Comptroller of the Treasury to study the feasibility of a certain tax credit in consultation with the Department of Health and Mental Hygiene; requiring certain reports to be submitted to the Governor and the General Assembly; requiring the Department of Health and Mental Hygiene to study the feasibility of purchasing prescription drugs in a certain manner; requiring the Foundation to report certain information annually on or before a certain date; requiring the Department to study the impact of a certain program on certain entities; providing that certain individuals shall remain eligible for the subsidy plan regardless of the imposition of certain new eligibility requirements; requiring the Department and a certain carrier to extend a certain contract on or before a certain date; providing that the Secretary of Health and Mental Hygiene may suspend the implementation or operation of a certain plan upon certain notice by the federal government; requiring a certain carrier to send a certain notice to certain individuals by a certain date; stating the intent of the General Assembly; providing for the termination of certain provisions of this Act; making certain provisions of this Act subject to certain contingencies; providing for the effective dates of this Act; and generally relating to prescription drug benefits.

BY adding to
Article - Health - General
Section 15-103(d), 15-124.1, 15-124.2, and 15-606
Annotated Code of Maryland
(2000 Replacement Volume)

BY repealing and reenacting, with amendments,
Article - Health - General
Section 15-124(e), 15-601 through 15-604, inclusive, and 20-506
Annotated Code of Maryland
(2000 Replacement Volume)

BY repealing and reenacting, with amendments,
Article - Insurance
Section 15-606(a) and (c)
Annotated Code of Maryland
(1997 Volume and 2000 Supplement)

BY repealing and reenacting, with amendments,
Chapter 565 of the Acts of the General Assembly of 2000
Section 2

BY repealing
Chapter 565 of the Acts of the General Assembly of 2000
Section 4 and 5

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

15-103.

(D) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE SECRETARY SHALL ADMINISTER THE MARYLAND PHARMACY DISCOUNT PROGRAM, ESTABLISHED UNDER § 15-124.1 OF THIS SUBTITLE, AS PART OF THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

15-124.

(e) The Secretary shall develop a program, in consultation with appropriate agencies, that will provide information to ineligible Maryland Pharmacy Assistance Program applicants regarding other programs that they may be eligible for including [free programs offered by drug manufacturers] THE MARYLAND MEDBANK PROGRAM ESTABLISHED UNDER § 15-124.2 OF THIS SUBTITLE AND THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN ESTABLISHED UNDER SUBTITLE 6 OF THIS TITLE.

15-124.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ENROLLEE" MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE MARYLAND PHARMACY DISCOUNT PROGRAM.

(3) "PROGRAM" MEANS THE MARYLAND PHARMACY DISCOUNT PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THERE IS A MARYLAND PHARMACY DISCOUNT PROGRAM WITHIN THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO IMPROVE THE HEALTH STATUS OF MEDICARE BENEFICIARIES WHO LACK PRESCRIPTION DRUG COVERAGE BY PROVIDING ACCESS TO LOWER COST, MEDICALLY NECESSARY, PRESCRIPTION DRUGS.

(D) THE PROGRAM SHALL BE ADMINISTERED AND OPERATED BY THE DEPARTMENT AS PERMITTED BY FEDERAL LAW OR WAIVER.

(E) (1) THE PROGRAM SHALL BE OPEN TO MEDICARE BENEFICIARIES WHO LACK OTHER PUBLIC OR PRIVATE PRESCRIPTION DRUG COVERAGE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, ENROLLMENT IN THE MARYLAND MEDBANK PROGRAM ESTABLISHED UNDER § 15-124.2 OF THIS SUBTITLE OR THE MARYLAND PHARMACY ASSISTANCE PROGRAM

ESTABLISHED UNDER § 15-124 OF THIS SUBTITLE DOES NOT DISQUALIFY AN INDIVIDUAL FROM BEING ELIGIBLE FOR THE PROGRAM.

(F) (1) SUBJECT TO SUBSECTION (G) OF THIS SECTION, AN ENROLLEE MAY PURCHASE MEDICALLY NECESSARY PRESCRIPTION DRUGS THAT ARE COVERED UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM FROM ANY PHARMACY THAT PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AT A PRICE THAT IS BASED ON THE PRICE PAID BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM, MINUS THE AGGREGATE VALUE OF ANY FEDERALLY MANDATED MANUFACTURERS' REBATES.

(2) SUBJECT TO SUBSECTION (G) OF THIS SECTION, AND TO THE EXTENT AUTHORIZED UNDER FEDERAL WAIVER, AN ENROLLEE WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 175 PERCENT OF THE FEDERAL POVERTY GUIDELINES MAY RECEIVE A DISCOUNT SUBSIDIZED BY THE DEPARTMENT THAT IS EQUAL TO 35 PERCENT OF THE PRICE PAID BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM FOR EACH MEDICALLY NECESSARY PRESCRIPTION DRUG PURCHASED UNDER THE PROGRAM.

(G) THE DEPARTMENT MAY ESTABLISH MECHANISMS TO:

(1) RECOVER THE ADMINISTRATIVE COSTS OF THE PROGRAM;

(2) REIMBURSE PARTICIPATING PHARMACIES IN AN AMOUNT EQUAL TO THE MARYLAND MEDICAL ASSISTANCE PRICE, MINUS THE COPAYMENT PAID BY THE ENROLLEE FOR EACH PRESCRIPTION FILLED UNDER THE PROGRAM; AND

(3) ALLOW PARTICIPATING PHARMACIES TO COLLECT A $1 PROCESSING FEE, IN ADDITION TO ANY AUTHORIZED DISPENSING FEE, FOR EACH PRESCRIPTION FILLED FOR AN ENROLLEE UNDER THE PROGRAM.

(H) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Health - General

15-103.

(D) AS PERMITTED BY FEDERAL LAW, THE SECRETARY SHALL ADMINISTER THE MARYLAND PHARMACY DISCOUNT PROGRAM, ESTABLISHED UNDER § 15-124.1 OF THIS SUBTITLE, AS PART OF THE MARYLAND PHARMACY ASSISTANCE PROGRAM.

15-124.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ENROLLEE" MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE MARYLAND PHARMACY DISCOUNT PROGRAM.

(3) "PROGRAM" MEANS THE MARYLAND PHARMACY DISCOUNT PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THERE IS A MARYLAND PHARMACY DISCOUNT PROGRAM WITHIN THE MARYLAND PHARMACY ASSISTANCE PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO IMPROVE THE HEALTH STATUS OF LOW INCOME MEDICARE BENEFICIARIES WHO LACK PRESCRIPTION DRUG COVERAGE BY PROVIDING ACCESS TO LOWER COST, MEDICALLY NECESSARY, PRESCRIPTION DRUGS.

(D) THE PROGRAM SHALL BE OPEN TO MEDICARE BENEFICIARIES WHO:

(1) LACK OTHER PUBLIC OR PRIVATE PRESCRIPTION DRUG COVERAGE; AND

(2) HAVE AN ANNUAL HOUSEHOLD INCOME AT OR BELOW 250 PERCENT OF THE FEDERAL POVERTY GUIDELINES.

(E) (1) SUBJECT TO SUBSECTION (F) OF THIS SECTION, AN ENROLLEE MAY PURCHASE MEDICALLY NECESSARY PRESCRIPTION DRUGS THAT ARE COVERED UNDER THE MARYLAND PHARMACY ASSISTANCE PROGRAM FROM ANY PHARMACY THAT PARTICIPATES IN THE MARYLAND PHARMACY ASSISTANCE PROGRAM AT A PRICE THAT IS BASED ON THE PRICE PAID BY THE MARYLAND PHARMACY ASSISTANCE PROGRAM, MINUS THE AGGREGATE VALUE OF ANY MANUFACTURERS' REBATES PROVIDED UNDER THAT PROGRAM.

(2) EACH ENROLLEE UNDER THE PROGRAM WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 175 PERCENT OF THE FEDERAL POVERTY GUIDELINES MAY RECEIVE A DISCOUNT SUBSIDIZED BY THE DEPARTMENT THAT IS EQUAL TO 25 PERCENT OF THE PRICE PAID BY THE MARYLAND PHARMACY ASSISTANCE PROGRAM FOR EACH PRESCRIPTION DRUG PURCHASED UNDER THE PROGRAM.

(F) THE DEPARTMENT MAY ESTABLISH MECHANISMS TO:

(1) RECOVER THE ADMINISTRATIVE COSTS OF THE PROGRAM;

(2) REIMBURSE PARTICIPATING PHARMACIES IN AN AMOUNT EQUAL TO THE PRICE PAID BY THE MARYLAND PHARMACY ASSISTANCE PROGRAM, MINUS THE COPAYMENT PAID BY THE ENROLLEE FOR EACH PRESCRIPTION FILLED UNDER THE PROGRAM; AND

(3) ALLOW PARTICIPATING PHARMACIES TO COLLECT A $1 PROCESSING FEE, IN ADDITION TO ANY AUTHORIZED DISPENSING FEE, FOR EACH PRESCRIPTION FILLED FOR AN ENROLLEE UNDER THE PROGRAM.

(G) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Health - General

15-124.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "FOUNDATION" MEANS THE MARYLAND HEALTH CARE FOUNDATION ESTABLISHED UNDER § 20-502 OF THIS ARTICLE.

(3) "PROGRAM" MEANS THE MARYLAND MEDBANK PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THERE IS A MARYLAND MEDBANK PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO IMPROVE THE HEALTH STATUS OF INDIVIDUALS THROUGHOUT THE STATE WHO LACK PRESCRIPTION DRUG COVERAGE BY PROVIDING ACCESS TO MEDICALLY NECESSARY PRESCRIPTION DRUGS THROUGH PATIENT ASSISTANCE PROGRAMS SPONSORED BY PHARMACEUTICAL DRUG MANUFACTURERS.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE PROGRAM SHALL BE ADMINISTERED BY THE FOUNDATION.

(2) THE FOUNDATION SHALL CONTRACT WITH ONE OR MORE GOVERNMENT OR NONPROFIT ENTITIES TO OPERATE THE PROGRAM.

(E) (1) THE ADMINISTRATION AND OPERATION OF THE PROGRAM SHALL BE FUNDED THROUGH A GRANT PROVIDED BY THE DEPARTMENT.

(2) PROGRAM FUNDS MAY BE USED IN PART TO PURCHASE INTERIM SUPPLIES OF PRESCRIPTION DRUGS FOR ENROLLEES WHO HAVE APPLIED TO PARTICIPATE IN A MANUFACTURER'S PATIENT ASSISTANCE PROGRAM BUT HAVE NOT YET RECEIVED THE APPROVED PRESCRIPTION DRUG.

(F) (1) THE FOUNDATION SHALL ENSURE THAT THE PROGRAM IS AVAILABLE TO RESIDENTS IN EACH OF THE FOLLOWING GEOGRAPHIC REGIONS OF THE STATE:

(I) WESTERN MARYLAND;

(II) THE EASTERN SHORE;

(III) THE BALTIMORE METROPOLITAN AREA;

(IV) THE MARYLAND COUNTIES IN THE WASHINGTON, D.C. METROPOLITAN AREA; AND

(V) SOUTHERN MARYLAND, INCLUDING ANNE ARUNDEL COUNTY.

(2) THE FOUNDATION SHALL USE MEDBANK OF MARYLAND, INC. AND THE WESTERN MARYLAND PRESCRIPTION PROGRAM AS THE REGIONAL OFFICES FOR THE BALTIMORE METROPOLITAN AREA AND WESTERN MARYLAND, RESPECTIVELY.

(G) ELIGIBILITY FOR THE PROGRAM SHALL BE LIMITED ONLY BY THE CRITERIA ESTABLISHED BY PHARMACEUTICAL MANUFACTURERS FOR THEIR PATIENT ASSISTANCE PROGRAMS.

(H) (1) THE FOUNDATION SHALL REQUIRE DETAILED FINANCIAL REPORTS AT LEAST QUARTERLY FROM THE ENTITIES THAT OPERATE THE PROGRAM.

(2) THE FOUNDATION SHALL RELEASE FUNDS TO THE ENTITIES THAT OPERATE THE PROGRAM AS NEEDED AND JUSTIFIED BY THE QUARTERLY REPORTS FILED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(I) ON OR BEFORE DECEMBER 1, 2000, AND ANNUALLY THEREAFTER, THE FOUNDATION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON THE STATUS OF THE MARYLAND MEDBANK PROGRAM ESTABLISHED UNDER THIS SECTION, INCLUDING:

(1) THE NUMBER AND DEMOGRAPHIC CHARACTERISTICS OF THE STATE RESIDENTS SERVED BY THE PROGRAM;

(2) THE TYPES AND RETAIL VALUE OF PRESCRIPTION DRUGS ACCESSED THROUGH THE PROGRAM;

(3) THE NATURE AND EXTENT OF OUTREACH PERFORMED TO INFORM STATE RESIDENTS OF THE ASSISTANCE AVAILABLE THROUGH THE PROGRAM; AND

(4) THE TOTAL VOLUME AND RETAIL VALUE OF EACH BRAND NAME DRUG, BY MANUFACTURER, ACCESSED THROUGH THE PROGRAM.

20-506.

(a) The Foundation shall:

(1) Solicit and accept any gift, grant, legacy, or endowment of money, including in-kind services, from the federal government, State government, local government, or any private source in furtherance of the Foundation;

(2) Provide grants to programs that:

(i) Promote public awareness of the need to provide more timely and cost-effective care for uninsured Marylanders;

(ii) Expand access to health care services for uninsured individuals; or

(iii) Provide or subsidize health insurance coverage for uninsured individuals;

(3) Study the feasibility and cost-effectiveness of providing health insurance coverage through the private market to uninsured children and their families as part of the program established under § 15-301 of this article;

(4) Develop programs for sponsorship by corporate and business organizations or private individuals;

(5) Develop criteria for awarding grants to health care delivery programs, insurance coverage programs, or corporate sponsorship programs;

(6) Develop criteria for prioritizing programs to be supported;

(7) Develop criteria for evaluating the effectiveness of programs receiving grants;

(8) Make, execute, and enter into any contract or other legal instrument;

(9) Receive appropriations as provided in the State budget;

(10) Lease and maintain an office at a place within the State that the Foundation designates;

(11) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(12) ADMINISTER THE MARYLAND MEDBANK PROGRAM IN ACCORDANCE WITH § 15-124.2 OF THIS ARTICLE;

(13) Take any other action necessary to carry out the purposes of the Foundation; and

[(13)] (14) Report annually to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, on its activities during the preceding year, including an evaluation of the effectiveness of funded programs, together with any recommendations or requests deemed appropriate to further the purposes of the Foundation.

(b) The Foundation may sue and be sued, but only to enforce contractual or similar agreements with the Foundation.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Health - General

15-601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Carrier" means:

(1) An authorized insurer;

(2) A nonprofit health service plan; OR

(3) A health maintenance organization[;

(4) A managed care organization;

(5) A dental plan organization; or

(6) Any other person that provides health benefit plans subject to regulation by the State].

(c) "Eligible individual" means an individual who:

(1) Is a resident of Maryland [and at least 65 years of age];

(2) Is A MEDICARE BENEFICIARY [eligible for Medicare Plus Choice, as defined under Title XVIII of the federal Social Security Act, as amended];

(3) [Resides in a medically underserved county or portion of a county;

(4) Pays the premium for Medicare Part "B", as required by Title XVIII of the Social Security Act, as amended;

(5)] Is not enrolled in a Medicare Plus Choice managed care program OR OTHER INSURANCE PROGRAM that provides prescription drug benefits at the time that the individual applies for enrollment in the plan; [and]

(4) HAS AN ANNUAL HOUSEHOLD INCOME AT OR BELOW 300 PERCENT OF THE FEDERAL POVERTY GUIDELINES; AND

[(6)] (5) Pays the premium[, co-payments, and deductibles] AND COPAYMENTS for the plan.

(d) "Enrollee" means an individual enrolled in the plan.

(e) "Fund" means the Short-Term Prescription Drug Subsidy Plan Fund created under § 15-604 of this subtitle.

[(f) "Medically underserved county" means any of the following counties:

(1) Allegany County;

(2) Calvert County;

(3) Caroline County;

(4) Carroll County;

(5) Cecil County;

(6) Charles County;

(7) Dorchester County;

(8) Frederick County;

(9) Garrett County;

(10) Kent County;

(11) Queen Anne's County;

(12) St. Mary's County;

(13) Somerset County;

(14) Talbot County;

(15) Washington County;

(16) Wicomico County; or

(17) Worcester County.

(g) "Portion of a county" means a geographic part of a county not listed in subsection (f) of this section that was served by a Medicare Plus Choice managed care provider prior to January 1, 2000, and is no longer served.]

[(h)] (F) "Plan" means the Short-Term Prescription Drug Subsidy Plan established under this subtitle.

15-602.

(a) A carrier that is required to provide the Short-Term Prescription Drug Subsidy Plan under § 15-606(c) of the Insurance Article shall:

(1) Sign a contract with the Secretary agreeing to provide prescription drug benefits to eligible individuals for a period of at least 2 years;

(2) Except as otherwise required under State or federal law, agree not to alter the level or types of benefits provided under the Plan throughout the 2-year period of the contract;

(3) Agree to hold enrollee premiums at the same level throughout the 2-year contract period;

[(4) Agree to continue to serve at least the same medically underserved counties or portions of counties throughout the 2-year contract period;] and

[(5)] (4) [Make all performance review and financial records available for review by] SUBMIT A DETAILED QUARTERLY FINANCIAL ACCOUNTING OF THE PLAN, INCLUDING THE IDENTIFICATION OF ALL REVENUE AND COST ITEMS, TO the Secretary and the Maryland Insurance Administration.

(b) The carrier is not required, in providing the Plan, to offer any other benefit otherwise required under Title 19, Subtitle 7 of this article or Title 15, Subtitle 8 of the Insurance Article.

(C) (1) THE CARRIER SHALL DEVELOP AND IMPLEMENT A MARKETING PLAN TARGETED AT ELIGIBLE INDIVIDUALS THROUGHOUT THE STATE.

(2) THE CARRIER'S MARKETING PLAN SHALL BE FILED WITH AND APPROVED BY THE INSURANCE COMMISSIONER.

(3) THE CARRIER SHALL COORDINATE THE MARKETING PLAN WITH THE OUTREACH PROGRAM OF THE DEPARTMENT UNDER § 15-606 OF THIS SUBTITLE.

15-603.

(a) The Plan provided under this subtitle shall:

(1) [Throughout the 2-year contract period] SUBJECT TO THE MONEYS AVAILABLE IN THE FUND, provide benefits to not more than [15,000] 30,000 enrollees at any one time [who are eligible individuals and who reside in any of the medically underserved counties or portions of counties];

(2) Set the monthly premium charged an enrollee at [$40] $10;

(3) [Set the deductible charged an enrollee at $50 per year per individual] NOT REQUIRE A DEDUCTIBLE; AND

(4) Limit the co-pay charged an enrollee to:

(i) $10 for a prescription for a generic drug;

(ii) $20 for a prescription for a preferred brand name drug; and

(iii) $35 for a prescription for a nonpreferred brand name drug[; and].

(B) [(5) Limit] THE PLAN MAY LIMIT the total annual benefit to $1,000 per individual.

[(b)] (C) The Plan may include a restricted formulary of experimental drugs not approved by the federal Food and Drug Administration for general use that will not be reimbursed.

[(c)] (D) [(1) During the first 180 days of the operation of the Plan, the carrier may enroll only eligible individuals who were:

(i) Enrolled in Medicare Plus Choice managed care programs in medically underserved counties or portions of counties on or before December 31, 1999; and

(ii) After December 31, 1999, ceased to be enrolled in those plans.

(2) On and after the 181st day of the operation of the Plan, the carrier may enroll any eligible individual.

(3) The carrier shall work with the Secretary and the Maryland Department of Aging to provide notice, through the written and electronic media and other means, to the eligible individuals eligible for enrollment in the first 180 days of the operation of the Plan, of the availability of the Plan and of the enrollment preference to be granted.] EFFECTIVE JULY 1, 2001, THE CARRIER SHALL DISREGARD ALL BENEFIT AMOUNTS REALIZED UNDER THE PLAN BY EACH ENROLLEE THROUGH JUNE 30, 2001, FOR THE PURPOSE OF CALCULATING THE ENROLLEE'S PROGRESS TOWARD THE TOTAL ANNUAL BENEFIT LIMIT FOR THE YEAR BEGINNING JULY 1, 2001.

15-604.

(a) There is a Short-Term Prescription Drug Subsidy Plan Fund.

(b) The Fund contains:

(1) the assessment against carriers made under § 15-606(c) of the Insurance Article;

(2) PREMIUMS COLLECTED UNDER § 15-603 OF THIS SUBTITLE; AND

(3) INTEREST AND INVESTMENT INCOME.

(c) The Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(d) The Treasurer shall separately hold, and the Comptroller shall account, for the Fund.

(e) (1) The Fund shall be invested and reinvested in the same manner as other State funds.

(2) Any INTEREST AND investment earnings shall be retained to the credit of the Fund.

(f) The Fund shall be subject to an audit by the Office of Legislative Audits, as provided in § 2-1220 of the State Government Article.

(g) The Secretary shall transfer the moneys in the Fund to the carrier providing the Plan as the moneys are needed to provide benefits to enrollees in the Plan AS DOCUMENTED IN THE CARRIER'S QUARTERLY REPORT SUBMITTED TO THE SECRETARY AND THE MARYLAND INSURANCE ADMINISTRATION UNDER § 15-602(A)(4) OF THIS SUBTITLE.

15-606.

(A) FOR THE PURPOSE OF MAXIMIZING PARTICIPATION IN THE PLAN, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT AN OUTREACH PROGRAM TARGETED AT ELIGIBLE INDIVIDUALS.

(B) THE DEPARTMENT SHALL PUBLICIZE THE EXISTENCE AND ELIGIBILITY REQUIREMENTS OF THE PLAN THROUGH THE FOLLOWING ENTITIES:

(1) THE DEPARTMENT OF AGING;

(2) LOCAL HEALTH DEPARTMENTS;

(3) CONTINUING CARE RETIREMENT COMMUNITIES;

(4) PLACES OF WORSHIP;

(5) CIVIC ORGANIZATIONS;

(6) COMMUNITY PHARMACIES; AND

(7) ANY OTHER ENTITY THAT THE DEPARTMENT DETERMINES APPROPRIATE.

(C) THE DEPARTMENT OF AGING, THROUGH ITS SENIOR HEALTH INSURANCE PROGRAM, SHALL:

(1) ASSIST ELIGIBLE INDIVIDUALS IN APPLYING FOR COVERAGE UNDER THE PLAN; AND

(2) PROVIDE NOTICE OF THE PLAN AND ITS ELIGIBILITY REQUIREMENTS TO POTENTIALLY ELIGIBLE INDIVIDUALS WHO SEEK HEALTH INSURANCE COUNSELING SERVICES THROUGH THE DEPARTMENT OF AGING.

(D) THE DEPARTMENT SHALL ENSURE THAT THE ENTITIES USED TO PUBLICIZE THE EXISTENCE OF THE PLAN UNDER SUBSECTION (B) OF THIS SECTION HAVE SUFFICIENT PLAN APPLICATIONS AND ENROLLMENT MATERIALS FOR DISTRIBUTION.

(E) AS PART OF ITS OUTREACH PROGRAM, THE DEPARTMENT SHALL DEVELOP A MAIL-IN APPLICATION.

(F) THE OUTREACH PROGRAM FOR THE PLAN SHALL BE FUNDED THROUGH THE FUND.

Article - Insurance

15-606.

(a) In this section, "carrier" means:

(1) an insurer;

(2) a nonprofit health service plan;

(3) a health maintenance organization; OR

(4) [a dental plan organization; or

(5)] any other person that provides health benefit plans subject to regulation by the State.

(c) (1) In addition to the requirements imposed under subsection (b) of this section, a carrier may not receive the approved purchaser differential unless the carrier contributes, as provided in paragraph (2) of this subsection, to the Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health - General Article.

(2) (i) The total contributions to be made to the Short-Term Prescription Drug Subsidy Plan by all carriers participating in the substantial, [affordable, and available] AVAILABLE, AND AFFORDABLE coverage differential program shall be [$5.4 million per year] EQUAL TO 37.5 PERCENT OF THE VALUE OF THE DIFFERENTIAL PROVIDED TO ALL CARRIERS THAT OFFER SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE IN THE NONGROUP INSURANCE MARKET.

(ii) 1. Each carrier participating in the substantial, [affordable, and available] AVAILABLE, AND AFFORDABLE coverage differential program shall contribute an amount to the Short-Term Prescription Drug Subsidy Plan that is equal to [the total derived by multiplying $5.4 million] 37.5 PERCENT OF THE VALUE OF THE DIFFERENTIAL PROVIDED TO THAT CARRIER [by the percentage of the total benefit to all carriers from the substantial, affordable, and available coverage differential that the carrier receives on January 1, 2000] DURING THE PREVIOUS YEAR.

2. On OR BEFORE July 1 of each year, the Health Services Cost Review Commission shall calculate each carrier's contribution and assess the contribution as provided in this subsection.

(iii) 1. The last carrier to provide Medicare Plus Choice coverage in medically underserved counties [or portions of counties] shall use an amount equal to the contribution derived under subparagraph (ii) of this paragraph to provide the

Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health - General Article.

2. The carrier is not required, in providing the plan under this subparagraph, to offer any other benefit otherwise required under Title 19, Subtitle 7 of the Health - General Article or Subtitle 8 of this title.

(iv) The Health Services Cost Review Commission shall annually assess [any] EACH carrier [other than the carrier described under subparagraph (iii) of this paragraph] for the carrier's contribution and shall transfer the contribution to the Treasurer of the State, for payment into the Short-Term Prescription Drug Subsidy Fund created under § 15-604 of the Health - General Article.

[(v) If a carrier withdraws from the substantial, affordable, and available coverage program, the Commission shall recalculate the contributions to the prescription drug subsidy plan for the remaining carriers.]

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 565 of the Acts of 2000

SECTION 2. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission may not take steps to eliminate or adjust the differential in hospital rates provided to carriers [who] THAT provide a substantial, [affordable, and available] AVAILABLE, AND AFFORDABLE product in the nongroup market, under § 15-606 of the Insurance Article and the regulations of the Commission, as those rates were in effect on January 1, 2000 until the later of the termination of the Short-Term Prescription Drug Subsidy Plan created under [this Act] TITLE 15, SUBTITLE 6 OF THE HEALTH - GENERAL ARTICLE or the end of June 30, [2002] 2003.

[SECTION 4. AND BE IT FURTHER ENACTED, That, if the Secretary of Health and Mental Hygiene is notified by the federal Health Care Financing Administration that any provision of Short-Term Prescription Drug Subsidy Plan or of this Act will invalidate the Maryland Medicare Waiver or cause a reduction in the State's eligibility for federal funding of Medicaid, the Secretary may suspend the provision of the Short-Term Prescription Drug Subsidy Plan or the provision of this Act that is the subject of the notification.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. On the earlier of the end of June 30, 2002, or the availability of comparable prescription pharmacy benefits provided by Medicare under Title XVIII of the Social Security Act, as amended, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect. If comparable prescription pharmacy benefits are provided by Medicare under Title XVIII of the Social Security Act, the Secretary of Health and Mental Hygiene shall notify the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 not later than 90 days before prescription drug benefits are to be provided.]

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) on or before August 1, 2001, the Department of Health and Mental Hygiene shall submit to the federal Health Care Financing Administration an application for an amendment to the State's existing § 1115 demonstration waiver necessary to implement the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article;

(b) the Department shall include in its application required under subsection (a) of this section provisions for the establishment of a pharmaceutical care management program, for individuals who will participate in the Maryland Pharmacy Discount Program, the objectives of which shall be to:

(1) improve the overall health condition of covered individuals;

(2) ensure that covered individuals are receiving necessary prescription medications, are not receiving multiple medications which are not adding to the overall improvement of the health conditions of the individuals, and are not taking multiple medications which by their interaction may cause harm; and

(3) ensure coordination between a covered individual's primary care provider, pharmacist, and other health care professionals in the delivery of pharmaceutical care;

(c) the Department shall apply for federal matching funds subject to budget neutrality requirements under § 1115 of the Social Security Act and the availability of State funds; and

(d) if the Health Care Financing Administration does not approve the portions of the waiver application that require a processing fee or the pharmaceutical care management program for participating pharmacies, the Department shall implement the Maryland Pharmacy Discount Program without the processing fee.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) the State Comptroller of the Treasury, in consultation with the Department of Health and Mental Hygiene, shall study the feasibility of providing a tax credit for catastrophic out-of-pocket prescription drug expenses;

(b) the study shall include a consideration of:

(1) eligibility thresholds, including income and other status factors, for qualification for a tax credit;

(2) the nature and scope of out-of-pocket expenses that would be considered in calculating a tax credit;

(3) the fiscal impact, costs, and benefits of a variety of sizes of tax credits; and

(4) whether a tax credit should be refundable; and

(c) (1) the Comptroller shall report, on or before December 1, 2001, to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, on any findings and recommendations; and

(2) if a recommendation for a tax credit is made, the Comptroller shall make a recommendation in the report on the appropriate size, nature, and scope of the tax credit.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) the Department of Health and Mental Hygiene shall study the feasibility of purchasing prescription drugs through federally qualified health centers and local health departments in Maryland to maximize the number of people who can benefit from the purchasing power of these entities; and

(b) the Department shall, on or before December 1, 2001, report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on:

(1) the scope of each type of entity's purchasing power under federal prescription drug pricing programs;

(2) the federal restrictions or requirements placed on these types of entities as conditions for participation in federal prescription drug pricing programs;

(3) the number and demographic characteristics, including area of residence, economic status, and insurance status, of the individuals eligible to utilize available prescription drug pricing programs through these types of entities in the State;

(4) the types of prescription drugs that are or could be available through federal prescription drug pricing programs through these types of entities in the State;

(5) recommendations regarding:

(i) whether to pursue a method to access federal prescription drug pricing programs through these types of entities in the State; and

(ii) if the recommendation under item (i) of this item is affirmative:

1. the most appropriate method or methods to maximize the potential of federal prescription drug pricing programs through these types of entities in the State;

2. the best option or options for financing any method or methods recommended under item 1 of this item; and

3. the nature and extent of outreach that should be performed to best inform eligible individuals of the ability to obtain prescription drugs through the federally qualified health centers and local health departments in the State; and

(6) the costs and benefits of any recommendations under item (5)(ii) of this section.

SECTION 9. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall adopt regulations not later than June 30, 2001 to implement the provisions of Section 4 of this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene and the carrier that is required to provide the Short-Term Prescription Drug Subsidy Plan under § 15-606(c) of the Insurance Article shall agree, not later than June 30, 2001, to modify the contract required under Chapter 565 of the Acts of the General Assembly of 2000 to enable the implementation, effective July 1, 2001, of the provisions of Section 4 of this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That, if the Secretary of Health and Mental Hygiene is notified by the federal Health Care Financing Administration that any provision of Section 4 of this Act will invalidate the Maryland Medicare Waiver or cause a reduction in the State's eligibility for federal funding of Medicaid, the Secretary may suspend the implementation or operation of the provision of Section 4 of this Act that is the subject of the notification.

SECTION 12. AND BE IT FURTHER ENACTED, That Sections 3 and 4 of this Act shall take effect July 1, 2001. On the earlier of the end of June 30, 2003, or the availability of comparable prescription drug benefits provided by Medicare under Title XVIII of the Social Security Act, as amended, with no further action required by the General Assembly, Sections 3 and 4 of this Act shall be abrogated and of no further force and effect. If comparable prescription drug benefits are provided by Medicare under Title XVIII of the Social Security Act, the Secretary of Health and Mental Hygiene shall notify the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 not later than 90 days before prescription drug benefits are to be provided.

SECTION 13. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect on the date that the federal Health Care Financing Administration approves a waiver amendment applied for in accordance with Section 6 of this Act. The Department of Health and Mental Hygiene shall, within 5 working days of the date of the approval of the State's waiver amendment application, notify the Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401. If the waiver amendment is denied, Section 1 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 14. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the date that the federal Health Care Financing Administration denies a waiver amendment applied for in accordance with Section 6 of this Act. The Department of Health and Mental Hygiene shall, within 5 working days of the date of

the denial of the State's waiver amendment application, notify the Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401. If the waiver amendment is approved, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 15. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene may not enroll eligible individuals in the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article before January 1, 2002.

SECTION 16. AND BE IT FURTHER ENACTED, That:

(a) an individual who is enrolled in the Short-Term Prescription Drug Subsidy Plan as of June 30, 2001 shall remain eligible for the Plan regardless of whether the individual satisfies the income eligibility requirements imposed under § 15-601 of the Health - General Article on July 1, 2001; and

(b) no later than June 20, 2001, the carrier that is required to provide the Short-Term Prescription Drug Subsidy Plan established under § 15-606 of the Insurance Article, as enacted by Section 4 of this Act, shall notify each individual who was enrolled in a Medicare Plus Choice plan on or before December 31, 1999 and lost coverage under that plan on or after January 1, 2000, of the existence of and eligibility criteria for the Plan.

SECTION 17. AND BE IT FURTHER ENACTED, That:

(a) one year from the implementation date of the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article, the Department of Health and Mental Hygiene shall report to the House Economic Matters Committee and the Senate Finance Committee, in accordance with § 2-1246 of the State Government Article, on the impact of the Program on both independent and chain pharmacies that participate in the Program.

(b) the study shall include data and information regarding:

(1) the average price of each of the 10 most commonly purchased prescription drugs under the Program, with a comparison to the average retail price of those prescription drugs for an individual without any prescription drug benefits;

(2) the average discount per prescription provided by participating pharmacies to enrollees under the Program;

(3) the aggregate value of the discounts provided by participating pharmacies to enrollees under the Program;

(4) the aggregate value of pharmaceutical manufacturers' rebates provided under the Program; and

(5) the impact of the discounts provided under the Program by participating pharmacies, on the gross annual revenues and net profits, derived from the sale of prescription drugs, of participating pharmacies.

SECTION 18. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Health and Mental Hygiene shall transfer $2.5 million of the fiscal year 2002 Medical Care Programs Provider Reimbursement Budget, and $3 million of the fiscal year 2003 Medical Care Programs Provider Reimbursement Budget, to the Maryland Health Care Foundation for the sole purpose of making one or more grants to entities to operate the Maryland Medbank Program established under § 15-124.2 of the Health - General Article.

SECTION 19. AND BE IT FURTHER ENACTED, That is it the intent of the General Assembly that the Department of Health and Mental Hygiene shall authorize a $1 processing fee for participating pharmacies in the Maryland Pharmacy Discount Program established under § 15-124.1 of the Health - General Article for one year after the implementation date of the Program.

SECTION 20. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, beginning in fiscal year 2003, each carrier participating in the substantial, available, and affordable coverage differential program shall contribute to the Short-Term Prescription Drug Subsidy Plan Fund under § 15-606(c) of the Insurance Article an amount equal to 50 percent of the value of that carrier's differential under the program, if:

(a) the General Assembly acts affirmatively to increase the contribution to 50 percent; and

(b) the Short-Term Prescription Drug Subsidy Plan demonstrates a financial need for the increased contribution.

SECTION 21. AND BE IT FURTHER ENACTED, That Sections 9, 10, and 16 of this Act shall take effect June 1, 2001.

SECTION 22. AND BE IT FURTHER ENACTED, That, except as provided in Sections 13, 14, and 21 of this Act, this Act shall take effect July 1, 2001.