

HOUSE BILL 1100  
EMERGENCY BILL

Unofficial Copy  
C3

2003 Regular Session  
(31r2353)

ENROLLED BILL  
-- Health and Government Operations/Finance --

Introduced by ~~Delegate Pendergrass~~ Delegates Pendergrass, Hammen, Benson, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Haynes, Hubbard, Hurson, Kach, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon Weldon, Minnick, McHale, Krysiak, Harrison, Arnick, Weir, and Doory

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.

\_\_\_\_\_  
Speaker.

CHAPTER 2

1 AN ACT concerning

2 ~~Maryland Health Insurance Plan—Board of Directors~~  
3 Health Insurance Coverage Availability Act of 2003

4 FOR the purpose of making certain health insurance coverage available to certain  
5 individuals who lose coverage under certain circumstances and are eligible for a  
6 certain federal tax credit; making certain health insurance coverage available to  
7 certain individuals who lose coverage under a certain plan; requiring certain  
8 insurers to issue a Medicare supplemental policy to certain individuals;  
9 providing that certain provisions of this Act prevail over certain regulations;  
10 providing that certain provisions of this Act apply to certain Medicare  
11 supplement policies; requiring the Maryland Insurance Administration to issue  
12 notice of certain requirements to certain carriers; ~~altering the composition of~~

1 adding members to the Board of Directors for the Maryland Health Insurance  
 2 Plan; specifying the appointment process for the additional members of the  
 3 Board; requiring the Maryland Insurance Administration to give a certain notice  
 4 and make a certain request to the Centers for Medicare and Medicaid Services;  
 5 requiring the Department of Budget and Management, in consultation with the  
 6 Maryland Insurance Administration, to carry out a certain study, include a  
 7 certain comparison in the study, and make a certain report; defining certain  
 8 terms; altering a certain definition; making this Act an emergency measure; and  
 9 generally relating to the Maryland Health Insurance Plan and health insurance  
 10 coverage.

11 BY repealing and reenacting, without amendments,  
 12 Article - Insurance  
 13 Section 14-501(a), (c), and (g); and 14-502, and 14-503(a) and (b)  
 14 Annotated Code of Maryland  
 15 (2002 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, with amendments,  
 17 Article - Insurance  
 18 Section 14-501(f) and 14-503(e) and (d)  
 19 Annotated Code of Maryland  
 20 (2002 Replacement Volume and 2002 Supplement)

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

23 **Article - Insurance**

24 14-501.

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

26 (c) "Board" means the Board of Directors for the Maryland Health Insurance  
 27 Plan.

28 (f) (1) "Medically uninsurable individual" means an individual who is a  
 29 resident of the State and who:

30 (i) provides evidence that, for health reasons, a carrier has refused  
 31 to issue substantially similar coverage to the individual;

32 (ii) provides evidence that, for health reasons, a carrier has refused  
 33 to issue substantially similar coverage to the individual, except at a rate that exceeds  
 34 the Plan rate;

35 (iii) satisfies the definition of "eligible individual" under § 15-1301  
 36 of this article;

1 (iv) has a history of or suffers from a medical or health condition  
2 that is included on a list promulgated in regulation by the Board; [or]

3 (v) IS ELIGIBLE FOR THE TAX CREDIT FOR HEALTH INSURANCE  
4 COSTS UNDER § 35 OF THE INTERNAL REVENUE CODE; OR

5 (VI) is a dependent of an individual who is eligible for coverage  
6 under this subsection.

7 (2) "Medically uninsurable individual" does not include an individual  
8 who is eligible for coverage under:

9 (i) the federal Medicare program;

10 (ii) the Maryland Medical Assistance Program;

11 (iii) the Maryland Children's Health Program; or

12 (iv) an employer-sponsored group health insurance plan that  
13 includes benefits comparable to Plan benefits, UNLESS THE INDIVIDUAL IS ELIGIBLE  
14 FOR THE TAX CREDIT FOR HEALTH INSURANCE COSTS UNDER SECTION 35 OF THE  
15 INTERNAL REVENUE CODE.

16 (g) "Plan" means the Maryland Health Insurance Plan.

17 14-502.

18 (a) There is a Maryland Health Insurance Plan.

19 (b) The Plan is an independent unit that operates within the Administration.

20 (c) The purpose of the Plan is to decrease uncompensated care costs by  
21 providing access to affordable, comprehensive health benefits for medically  
22 uninsurable residents of the State by July 1, 2003.

23 (d) It is the intent of the General Assembly that the Plan operate as a  
24 nonprofit entity and that Fund revenue, to the extent consistent with good business  
25 practices, be used to subsidize health insurance coverage for medically uninsurable  
26 individuals.

27 14-503.

28 (a) There is a Board for the Plan.

29 (b) The Plan shall operate subject to the supervision and control of the Board.

30 (c) The Board consists of [five] SEVEN members, of whom:

31 (1) one shall be the Commissioner;

1 (2) one shall be the Executive Director of the Maryland Health Care  
2 Commission;

3 (3) one shall be the Executive Director of the Health Services Cost  
4 Review Commission;

5 (4) one shall be the Secretary of the Department of Budget and  
6 Management; [and]

7 (5) one shall be appointed by the Director of the Health, Education, and  
8 Advocacy Unit in the Office of the Attorney General in accordance with subsection (d)  
9 of this section;

10 (6) ~~ONE SHALL BE A REPRESENTATIVE OF~~ APPOINTED BY THE  
11 COMMISSIONER TO REPRESENT CARRIERS OPERATING IN THE STATE; AND

12 (7) ~~ONE SHALL BE AN INSURANCE PRODUCER~~ APPOINTED BY THE  
13 COMMISSIONER TO REPRESENT INSURANCE PRODUCERS SELLING INSURANCE IN  
14 THE STATE.

15 (d) (1) The Board member appointed under subsection (c)(5) of this section  
16 shall be a consumer who does not have a substantial financial interest in a person  
17 regulated under this article or under Title 19, Subtitle 7 of the Health - General  
18 Article.

19 (2) The term of [the] A consumer member AND A MEMBER APPOINTED  
20 BY THE COMMISSIONER is 4 years.

21 (3) At the end of a term, [the] A consumer member AND A MEMBER  
22 APPOINTED BY THE COMMISSIONER [continues] CONTINUE to serve until a successor  
23 is appointed and qualifies.

24 (4) [The] A consumer member AND A MEMBER APPOINTED BY THE  
25 COMMISSIONER who [is] ARE appointed after a term has begun [serves] SERVE only  
26 for the rest of the term and until a successor is appointed and qualifies.

27 (e) Each member of the Board is entitled to reimbursement for expenses under  
28 the Standard State Travel Regulations, as provided in the State budget.

29 (f) (1) The Board shall appoint an Executive Director who shall be the chief  
30 administrative officer of the Plan.

31 (2) The Executive Director shall serve at the pleasure of the Board.

32 (3) The Board shall determine the appropriate compensation for the  
33 Executive Director.

34 (4) Under the direction of the Board, the Executive Director shall perform  
35 any duty or function that is necessary for the operation of the Plan.

36 (g) The Board is not subject to:

1           (1)     the provisions of the State Finance and Procurement Article;

2           (2)     the provisions of Division I of the State Personnel and Pensions Article  
3 that govern the State Personnel Management System; or

4           (3)     the provisions of Divisions II and III of the State Personnel and  
5 Pensions Article.

6       (h)     (1)     The Board shall adopt a plan of operation for the Plan.

7           (2)     The Board shall submit the plan of operation and any amendment to  
8 the plan of operation to the Commissioner for approval.

9       (i)     On an annual basis, the Board shall submit to the Commissioner an  
10 audited financial report of the Fund prepared by an independent certified public  
11 accountant.

12       (j)     (1)     The Board shall adopt regulations necessary to operate and  
13 administer the Plan.

14           (2)     Regulations adopted by the Board may include:

15               (i)     residency requirements for Plan enrollees;

16               (ii)    Plan enrollment procedures; and

17               (iii)   any other Plan requirements as determined by the Board.

18       (k)     In order to maximize volume discounts on the cost of prescription drugs, the  
19 Board may aggregate the purchasing of prescription drugs for enrollees in the Plan  
20 and enrollees in the Senior Prescription Drug Program established under Part II of  
21 this subtitle.

22       (L)     FOR THOSE MEMBERS ENROLLED IN THE PLAN WHOSE ELIGIBILITY IN  
23 THE PLAN IS SUBJECT TO THE REQUIREMENTS OF THE FEDERAL TAX CREDIT FOR  
24 HEALTH INSURANCE COSTS UNDER SECTION 35 OF THE INTERNAL REVENUE CODE,  
25 THE BOARD SHALL REPORT ON OR BEFORE DECEMBER 1, 2003, AND ANNUALLY  
26 THEREAFTER, TO THE GOVERNOR, AND SUBJECT TO § 2-1246 OF THE STATE  
27 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE NUMBER OF  
28 MEMBERS ENROLLED IN THE PLAN AND THE COSTS TO THE PLAN ASSOCIATED WITH  
29 PROVIDING INSURANCE TO THOSE MEMBERS.

30       SECTION 2. AND BE IT FURTHER ENACTED, That:

31       (a)     This section:

32           (1)     prevails over any inconsistent provisions of the Code of Maryland  
33 Regulations 31.10.06.09-1-; and

1           (2)     shall apply to any individual Medicare supplement policy and to any  
 2 group Medicare supplement policy issued to a group of which an individual has  
 3 privileges associated with group membership.

4     (b)     In this section, the terms "carrier", "Medicare", and "Medigap policy" have  
 5 the meanings stated in § 15-901 of the Insurance Article. The definitions in § 15-901  
 6 of the Insurance Article shall apply to Section 2 of this Act.

7     (c)     A carrier that issues Medigap policies in the State shall issue a Medigap  
 8 policy shall issue any Medigap policy the carrier sells in the State to an individual  
 9 eligible for Medicare if:

10           (1)     the individual is enrolled under an employee welfare benefit plan  
 11 that provides health benefits;

12           (2)     the employee welfare benefit plan in which the individual is enrolled  
 13 terminates;

14           (3)     solely because of eligibility for Medicare, the individual is not eligible  
 15 for credit for health insurance costs under § 35 of the Internal Revenue Code and  
 16 enrollment in the Maryland Health Insurance Plan under § 14-501(f) of the  
 17 Insurance Article, as enacted by Section 1 this Act; and

18           (4)     the individual applies for the Medigap policy no later than 63 days  
 19 after the employee welfare benefit plan terminates.

20     (d)     The Maryland Insurance Administration shall issue notice of the  
 21 requirements of this section to each affected carrier in the State.

22     SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1,  
 23 2003, the Maryland Insurance Administration shall notify the Centers for Medicare  
 24 and Medicaid Services that the State has established the Maryland Health Insurance  
 25 Plan and shall request that the Maryland Health Insurance Plan be approved as an  
 26 acceptable "alternative mechanism" under the federal Health Insurance Portability  
 27 and Accountability Act in accordance with 45 CFR 148.128(e).

28     SECTION 2. 4. AND BE IT FURTHER ENACTED, That this Act ~~shall take~~  
 29 ~~effect June 1, 2003~~ is an emergency measure, is necessary for the immediate  
 30 preservation of the public health or safety, has been passed by a ye and nay vote  
 31 supported by three-fifths of all the members elected to each of the two Houses of the  
 32 General Assembly, and shall take effect from the date it is enacted.

