
By: **Delegates Hubbard, Benson, Cryor, Dumais, Frush, Gaines, Gordon, Kaiser, King, Krysiak, Lee, Madaleno, Menes, Moe, Murray, Niemann, Oaks, Parker, Patterson, Pendergrass, Ramirez, Ross, V. Turner, and Vaughn**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnership for Health Coverage for All Marylanders**

3 FOR the purpose of expanding eligibility under the Maryland Medical Assistance
4 Program to parents at or below a certain income, subject to certain limitations;
5 including uninsured individuals in the Maryland Pharmacy Discount Program;
6 including all individuals under a certain age in the Maryland Children's Health
7 Program (MCHP); altering the MCHP premium plan to apply to certain
8 individuals whose family income is above a certain income; providing that an
9 individual is not eligible for the MCHP premium plan if a parent or guardian is
10 insured through an employer's health benefit plan that meets certain
11 conditions; altering certain required family contribution amounts; requiring a
12 parent or guardian of an individual in the MCHP premium plan to pay a certain
13 premium determined by the Secretary of Health and Mental Hygiene under
14 certain circumstances; expanding a certain health insurance program to include
15 health benefit plans that cover certain individuals; requiring the
16 Comprehensive Standard Health Benefit Plan to include all benefits that
17 existed in the Plan as of a certain date; requiring the Maryland Health Care
18 Commission to exclude or limit additional benefits in the Plan if the average
19 rate for the Plan exceeds a certain average annual wage; altering the maximum
20 number of eligible employees a person may employ to be considered a small
21 employer in the Maryland Health Insurance Reform Act; altering the tobacco
22 tax rate for cigarettes; repealing certain referral procedures and treatment
23 required by the Alcohol and Drug Abuse Administration; repealing authority of
24 the Administration to establish or operate certain facilities and services;
25 requiring that the Department of Health and Mental Hygiene provide certain
26 mental health services to certain individuals under certain conditions; requiring
27 the Secretary of Health and Mental Hygiene to adopt certain regulations for
28 certain costs of receiving services; renaming the Maryland Health Insurance
29 Plan to be MdCare; providing for the status and purpose of MdCare;
30 establishing the Board of MdCare; providing for the composition and
31 appointment of members of the Board; authorizing employees of MdCare to
32 engage in collective bargaining; requiring MdCare to adopt certain regulations;

1 authorizing the Board of MdCare to aggregate the purchasing of prescription
2 drugs for certain enrollees; renaming the Maryland Health Insurance Plan
3 Fund to be the MdCare Fund; establishing eligibility requirements for MdCare;
4 requiring the MdCare Fund to include moneys appropriated in the State budget
5 to the MdCare Fund; repealing a provision that a debt or obligation of the Plan
6 is not a debt or pledge of credit of the State; prohibiting the benefit package
7 under MdCare from restricting certain days authorized for certain treatment;
8 requiring the benefit package under MdCare to include certain benefits and
9 services; repealing certain exclusions from the benefit package; requiring the
10 Board of MdCare to ensure that enrollees may select federally qualified health
11 centers and school based health centers as their primary care providers;
12 prohibiting the Board from charging a premium rate during a certain fiscal
13 year; prohibiting the Board from imposing any cost-sharing requirements,
14 deductibles, co-pays, and coinsurance on certain individuals for certain fiscal
15 years; prohibiting the Board from charging a premium rate for certain
16 individuals whose income is at or below a certain amount and requiring the
17 Board to establish a certain sliding scale premium rate for certain individuals
18 whose income is between certain amounts; repealing certain premium rate
19 requirements and requirements for a standard risk rate; requiring the Board to
20 select one or more administrators to administer MdCare; requiring the Board to
21 establish the Maryland Quality Institute; establishing the duties of the
22 Institute; establishing the MdCare Universal Coverage Oversight Commission;
23 providing for the purpose, composition, chairman, staff, and duties of the
24 Commission; requiring the Commission to submit certain reports on or before
25 certain dates; requiring the Board of MdCare to develop a certain
26 "electronic-Care Management" system; requiring an individual to pay certain
27 additional State income tax in certain amounts under certain circumstances;
28 providing for the distribution of certain additional State income tax;
29 establishing the Fair Share Health Care Fund; providing for the purpose,
30 composition, and use of the Fund; providing that certain health care payroll
31 assessment applies to employers with a certain number of employees; requiring
32 certain employers to submit certain information on health insurance costs to the
33 Secretary of Labor, Licensing, and Regulation; requiring certain employers to
34 make certain payments to the Secretary in a certain amount and in a certain
35 manner; establishing a certain penalty; requiring the Secretary to adopt certain
36 regulations; establishing a certain special fund to dedicate certain tobacco tax
37 revenues to increase provider reimbursements in the Maryland Medical
38 Assistance Program and the Maryland Children's Health Program; requiring
39 the Department of Health and Mental Hygiene to seek certain approval for
40 coverage expansion under the Maryland Medical Assistance Program, the
41 Maryland Pharmacy Discount Program, and the Maryland Children's Health
42 Program; providing for certain contingencies; altering certain definitions; and
43 generally relating to health coverage for all Marylanders.

44 BY repealing and reenacting, with amendments,
45 Article - Health - General
46 Section 15-103(a)
47 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Health - General

4 Section 15-124.1

5 Annotated Code of Maryland

6 (2000 Replacement Volume and 2004 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Health - General

9 Section 15-301 and 15-301.1

10 Annotated Code of Maryland

11 (2000 Replacement Volume and 2004 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Insurance

14 Section 15-1201, 15-1202, 15-1203(b), and 15-1207

15 Annotated Code of Maryland

16 (2002 Replacement Volume and 2004 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article - Tax - General

19 Section 12-105(a)

20 Annotated Code of Maryland

21 (2004 Replacement Volume)

22 BY repealing and reenacting, without amendments,

23 Article - Health - General

24 Section 8-101(a) and (b)

25 Annotated Code of Maryland

26 (2000 Replacement Volume and 2004 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article - Health - General

29 Section 8-402, 8-403, 10-104, and 10-901

30 Annotated Code of Maryland

31 (2000 Replacement Volume and 2004 Supplement)

32 BY repealing and reenacting, with amendments,

33 Article - Health - General

34 Section 15-103(a)

35 Annotated Code of Maryland

36 (2000 Replacement Volume and 2004 Supplement)

- 1 (As enacted by Section 1 of this Act)
- 2 BY repealing and reenacting, with amendments,
3 Article - Insurance
4 Section 14-501 through 14-508 to be under the amended part "Part I. MdCare";
5 and 14-510
6 Annotated Code of Maryland
7 (2002 Replacement Volume and 2004 Supplement)
- 8 BY adding to
9 Article - Insurance
10 Section 14-503.1, 14-509, and 14-509.1
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)
- 13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 15-103(a)
16 Annotated Code of Maryland
17 (2000 Replacement Volume and 2004 Supplement)
18 (As enacted by Sections 1 and 6 of this Act)
- 19 BY adding to
20 Article - Insurance
21 Section 15-131
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2004 Supplement)
- 24 BY adding to
25 Article - Health - General
26 Section 15-142
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2004 Supplement)
- 29 BY adding to
30 Article - Labor and Employment
31 Section 8.5-101 through 8.5-106, inclusive, to be under the new title "Title
32 8.5. Health Care Payroll Assessment"
33 Annotated Code of Maryland
34 (1999 Replacement Volume and 2004 Supplement)
- 35 BY repealing and reenacting, with amendments,
36 Article - Tax - General
37 Section 2-1603

1 Annotated Code of Maryland
2 (2004 Replacement Volume)

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

5 **Article - Health - General**

6 15-103.

7 (a) (1) The Secretary shall administer the Maryland Medical Assistance
8 Program.

9 (2) The Program:

10 (i) Subject to the limitations of the State budget, shall provide
11 comprehensive medical and other health care services for indigent individuals or
12 medically indigent individuals or both;

13 (ii) Shall provide, subject to the limitations of the State budget,
14 comprehensive medical and other health care services for all eligible pregnant women
15 whose family income is at or below 250 percent of the poverty level, as permitted by
16 the federal law;

17 (iii) Shall provide, subject to the limitations of the State budget,
18 comprehensive medical and other health care services for all eligible children
19 currently under the age of 1 whose family income falls below 185 percent of the
20 poverty level, as permitted by federal law;

21 (iv) Shall provide, subject to the limitations of the State budget,
22 family planning services to women currently eligible for comprehensive medical care
23 and other health care under item (ii) of this paragraph for 5 years after the second
24 month following the month in which the woman delivers her child;

25 (v) Shall provide, subject to the limitations of the State budget,
26 comprehensive medical and other health care services for all children from the age of
27 1 year up through and including the age of 5 years whose family income falls below
28 133 percent of the poverty level, as permitted by the federal law;

29 (vi) Shall provide, subject to the limitations of the State budget,
30 comprehensive medical care and other health care services for all children born after
31 September 30, 1983 who are at least 6 years of age but are under 19 years of age
32 whose family income falls below 100 percent of the poverty level, as permitted by
33 federal law;

34 (vii) Shall provide, subject to the limitations of the State budget,
35 comprehensive medical care and other health care services for all legal immigrants
36 who meet Program eligibility standards and who arrived in the United States before
37 August 22, 1996, the effective date of the federal Personal Responsibility and Work
38 Opportunity Reconciliation Act, as permitted by federal law;

1 (viii) Shall provide, subject to the limitations of the State budget and
 2 any other requirements imposed by the State, comprehensive medical care and other
 3 health care services for all legal immigrant children under the age of 18 years and
 4 pregnant women who meet Program eligibility standards and who arrived in the
 5 United States on or after August 22, 1996, the effective date of the federal Personal
 6 Responsibility and Work Opportunity Reconciliation Act;

7 (IX) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE
 8 BUDGET AND ANY OTHER REQUIREMENTS IMPOSED BY THE STATE,
 9 COMPREHENSIVE MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR ALL
 10 PARENTS WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 100 PERCENT OF
 11 THE FEDERAL POVERTY LEVEL;

12 [(ix)] (X) May include bedside nursing care for eligible Program
 13 recipients; and

14 [(x)] (XI) Shall provide services in accordance with funding
 15 restrictions included in the annual State budget bill.

16 (3) Subject to restrictions in federal law or waivers, the Department may
 17 impose cost-sharing on Program recipients.

18 (4) IN ADMINISTERING THE PROGRAM, THE DEPARTMENT:

19 (I) MAY NOT REQUIRE AN ASSET TEST FOR PARENTS AND
 20 CHILDREN;

21 (II) SHALL ALLOW SELF-DECLARATION OF INCOME AND
 22 ELIGIBILITY INFORMATION REQUIRED FOR THE APPLICATION PROCESS, EXCEPT
 23 WHERE THE STATE HAS REASON TO QUESTION THE INFORMATION PROVIDED;

24 (III) SHALL ESTABLISH RENEWAL PROCEDURES THAT ALLOW
 25 ENROLLEES TO VERIFY INFORMATION BY MAIL; AND

26 (IV) SHALL GUARANTEE AN ENROLLMENT PERIOD FOR 12 MONTHS,
 27 EXCEPT IN CASES OF FRAUD OR MISREPRESENTATION IN THE APPLICATION.

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

30 **Article - Health - General**

31 15-124.1.

32 (a) (1) In this section the following words have the meanings indicated.

33 (2) "Enrollee" means an individual who is enrolled in the Maryland
 34 Pharmacy Discount Program.

1 (3) "Program" means the Maryland Pharmacy Discount Program
2 established under this section.

3 (b) There is a Maryland Pharmacy Discount Program within the Maryland
4 Medical Assistance Program.

5 (c) The purpose of the Program is to improve the health status of [Medicare
6 beneficiaries] INDIVIDUALS who lack prescription drug coverage by providing access
7 to lower cost, medically necessary, prescription drugs.

8 (d) The Program shall be administered and operated by the Department as
9 permitted by federal law or waiver.

10 (e) (1) The Program shall be open to [Medicare beneficiaries] INDIVIDUALS
11 who lack other public or private prescription drug coverage.

12 (2) Notwithstanding paragraph (1) of this subsection, enrollment in the
13 Maryland Medbank Program established under § 15-124.2 of this subtitle or the
14 Maryland Pharmacy Assistance Program established under § 15-124 of this subtitle
15 does not disqualify an individual from being eligible for the Program.

16 (f) (1) Subject to subsection (g) of this section, an enrollee may purchase
17 medically necessary prescription drugs that are covered under the Maryland Medical
18 Assistance Program from any pharmacy that participates in the Maryland Medical
19 Assistance Program at a price that is based on the price paid by the Maryland
20 Medical Assistance Program, minus the aggregate value of any federally mandated
21 manufacturers' rebates.

22 (2) Subject to subsection (g) of this section, and to the extent authorized
23 under federal waiver, an enrollee whose annual household income is at or below 175
24 percent of the federal poverty guidelines may receive a discount subsidized by the
25 Department that is equal to 35 percent of the price paid by the Maryland Medical
26 Assistance Program for each medically necessary prescription drug purchased under
27 the Program.

28 (g) The Department may establish mechanisms to:

29 (1) Recover the administrative costs of the Program;

30 (2) Reimburse participating pharmacies in an amount equal to the
31 Maryland Medical Assistance price, minus the copayment paid by the enrollee for
32 each prescription filled under the Program; and

33 (3) Allow participating pharmacies to collect a \$1 processing fee, in
34 addition to any authorized dispensing fee, for each prescription filled for an enrollee
35 under the Program.

36 (h) The Secretary shall adopt regulations to implement the Program.

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

3 **Article - Health - General**

4 15-301.

5 (a) There is a Maryland Children's Health Program.

6 (b) The Maryland Children's Health Program shall provide, subject to the
7 limitations of the State budget and any other requirements imposed by the State and
8 as permitted by federal law or waiver, comprehensive medical care and other health
9 care services to an individual [who has a family income at or below 300 percent of the
10 federal poverty guidelines and] who is under the age of 19 years.

11 (c) The Maryland Children's Health Program shall be administered:

12 (1) [Except as provided in item (3) of this subsection, for] FOR
13 individuals whose family income is at or below 200 percent of the federal poverty
14 guidelines, through the Program under Subtitle 1 of this title requiring individuals to
15 enroll in managed care organizations; OR

16 (2) For eligible individuals whose family income is above 200 [percent,
17 but at or below 300] percent of the federal poverty guidelines, through the MCHP
18 premium plan under § 15-301.1 of this subtitle[; or

19 (3) In fiscal year 2004 only, for eligible individuals whose family income
20 is above 185 percent, but at or below 300 percent of the federal poverty guidelines,
21 through the MCHP premium plan under § 15-301.1 of this subtitle].

22 (d) (1) The Department shall provide eligible individuals and health care
23 providers with an accurate directory or other listing of all available providers:

24 (i) In written form, made available upon request; and

25 (ii) On an Internet database.

26 (2) The Department shall update the Internet database at least every 30
27 days.

28 (3) The written directory shall include a conspicuous reference to the
29 Internet database.

30 15-301.1.

31 (a) (1) In this section the following words have the meanings indicated.

32 (2) "CARRIER" MEANS:

33 (I) AN INSURER;

- 1 (II) A NONPROFIT SERVICE PLAN;
- 2 (III) A HEALTH MAINTENANCE ORGANIZATION; OR
- 3 (IV) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS
- 4 SUBJECT TO REGULATION BY THE STATE.

5 [(2)] (3) "Eligible individual" means an individual who qualifies to

6 participate in the Maryland Children's Health Program [under § 15-301(b)]

7 SUBJECT TO § 15-301(C) of this subtitle AND WHOSE FAMILY INCOME IS ABOVE 200

8 PERCENT OF THE FEDERAL POVERTY GUIDELINES.

9 [(3)] (4) "Family contribution" means the portion of the premium cost

10 paid for an eligible individual to enroll and participate in the Maryland Children's

11 Health Program.

12 [(4)] (5) "MCHP premium plan" means the plan established under this

13 section to provide access to health insurance coverage to eligible individuals through

14 managed care organizations under the Maryland Children's Health Program.

15 (b) [Except as provided in subsection (c) of this section, this] THIS section

16 applies only to individuals whose family income is above 200 [percent, but at or below

17 300] percent of the federal poverty guidelines.

18 (C) (1) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE MCHP PREMIUM PLAN IF

19 A PARENT OR GUARDIAN IS INSURED THROUGH AN EMPLOYER'S HEALTH BENEFIT

20 PLAN THAT MEETS THE FOLLOWING CONDITIONS:

21 (I) THE EMPLOYER OFFERS FAMILY HEALTH INSURANCE

22 COVERAGE TO THE PARENT OR GUARDIAN OF AN ELIGIBLE INDIVIDUAL;

23 (II) THE PARENT OR GUARDIAN OF AN ELIGIBLE INDIVIDUAL IS

24 INSURED UNDER THE EMPLOYER-SPONSORED HEALTH BENEFIT PLAN;

25 (III) THE EMPLOYER CONTRIBUTES TO FAMILY HEALTH INSURANCE

26 COVERAGE AT A RATE NO LESS THAN 30 PERCENT OF ANNUAL PREMIUMS;

27 (IV) THE PLAN INCLUDES A BENEFIT PACKAGE THAT IS

28 DETERMINED BY THE DEPARTMENT TO BE AT LEAST EQUIVALENT TO THE

29 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN ESTABLISHED UNDER § 15-1207

30 OF THE INSURANCE ARTICLE; AND

31 (V) THE PREMIUM REQUIRED BY THE PLAN IS MORE THAN 6

32 PERCENT OF FAMILY INCOME.

33 (2) IF AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN THAT MEETS

34 THE CRITERIA UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT AVAILABLE TO

35 THE ELIGIBLE INDIVIDUAL, THE ELIGIBLE INDIVIDUAL SHALL BE INSURED

36 THROUGH A MANAGED CARE ORGANIZATION AS DEFINED IN § 15-101 OF THIS TITLE.

1 [(c)] (D) (1) As a requirement of enrollment and participation in the MCHP
 2 premium plan, THROUGH A MANAGED CARE ORGANIZATION, the parent or guardian
 3 of an eligible individual WHOSE FAMILY INCOME IS ABOVE 200 PERCENT BUT AT OR
 4 BELOW 400 PERCENT shall agree to pay the following annual family contribution:

5 [(i)] In fiscal year 2004 only, for an eligible individual whose family
 6 income is above 185 percent, but at or below 200 percent of the federal poverty
 7 guidelines, an amount equal to 2 percent of the annual income of a family of two at
 8 185 percent of the federal poverty guidelines;

9 [(ii)] (I) For an eligible individual whose family income is above
 10 200 percent, but at or below 250 percent of the federal poverty guidelines, an amount
 11 equal to 2 percent of the annual income of a family of two at 200 percent of the federal
 12 poverty guidelines; and

13 [(iii)] (II) For an eligible individual whose family income is above
 14 250 percent, but at or below [300] 400 percent of the federal poverty guidelines, an
 15 amount equal to 2 percent of the annual income of a family of two at 250 percent of
 16 the federal poverty guidelines.

17 (2) AS A REQUIREMENT OF ENROLLMENT AND PARTICIPATION IN THE
 18 MCHP PREMIUM PLAN, THROUGH A MANAGED CARE ORGANIZATION, THE PARENT OR
 19 GUARDIAN OF AN ELIGIBLE INDIVIDUAL WHOSE FAMILY INCOME IS ABOVE 400
 20 PERCENT OF THE FEDERAL POVERTY GUIDELINES SHALL AGREE TO PAY AN
 21 ACTUARIALLY FAIR PREMIUM DETERMINED BY THE SECRETARY.

22 [(2)] (3) The family contribution amounts required under [paragraph
 23 (1)] PARAGRAPHS (1) AND (2) of this subsection apply on a per family basis regardless
 24 of the number of eligible individuals each family has enrolled in the MCHP premium
 25 plan.

26 [(d)] (E) The Department shall adopt regulations necessary to implement this
 27 section.

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

30 **Article - Insurance**

31 15-1201.

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

33 (b) "Board" means the Board of Directors of the Pool established under §
 34 15-1216 of this subtitle.

35 (c) "Carrier" means a person that:

36 (1) offers health benefit plans in the State covering:

- 1 (I) eligible employees of small employers; [and]
- 2 (II) AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; AND
- 3 (III) AN INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS ABOVE
- 4 350% OF THE FEDERAL POVERTY LEVEL AND WHO DOES NOT ACCEPT
- 5 EMPLOYER-SPONSORED INSURANCE; AND

6 (2) is:

- 7 (i) an authorized insurer that provides health insurance in the
- 8 State;
- 9 (ii) a nonprofit health service plan that is licensed to operate in the
- 10 State;
- 11 (iii) a health maintenance organization that is licensed to operate in
- 12 the State; or
- 13 (iv) any other person or organization that provides health benefit
- 14 plans subject to State insurance regulation.

15 (d) "Commission" means the Maryland Health Care Commission established

16 under Title 19, Subtitle 1 of the Health - General Article.

17 (e) (1) "Eligible employee" means:

- 18 (i) an individual who:
 - 19 1. is an employee, sole proprietor, self-employed individual,
 - 20 partner of a partnership, or independent contractor who is included as an employee
 - 21 under a health benefit plan; and
 - 22 2. works on a full-time basis and has a normal workweek of
 - 23 at least 30 hours; or

24 (ii) a sole employee of a nonprofit organization that has been

25 determined by the Internal Revenue Service to be exempt from taxation under §

26 501(c)(3), (4), or (6) of the Internal Revenue Code who:

- 27 1. has a normal workweek of at least 20 hours; and
- 28 2. is not covered under a public or private plan for health
- 29 insurance or other health benefit arrangement.

30 (2) "Eligible employee" does not include an individual who works:

- 31 (i) on a temporary or substitute basis; or
- 32 (ii) except for an individual described in paragraph (1)(ii) of this
- 33 subsection, for less than 30 hours in a normal workweek.

- 1 (f) (1) "Health benefit plan" means:
- 2 (i) a policy or certificate for hospital or medical benefits;
- 3 (ii) a nonprofit health service plan; or
- 4 (iii) a health maintenance organization subscriber or group master
5 contract.
- 6 (2) "Health benefit plan" includes a policy or certificate for hospital or
7 medical benefits that covers residents of this State who are eligible employees and
8 that is issued through:
- 9 (i) a multiple employer trust or association located in this State or
10 another state; or
- 11 (ii) a professional employer organization, coemployer, or other
12 organization located in this State or another state that engages in employee leasing.
- 13 (3) "Health benefit plan" does not include:
- 14 (i) accident-only insurance;
- 15 (ii) fixed indemnity insurance;
- 16 (iii) credit health insurance;
- 17 (iv) Medicare supplement policies;
- 18 (v) Civilian Health and Medical Program of the Uniformed Services
19 (CHAMPUS) supplement policies;
- 20 (vi) long-term care insurance;
- 21 (vii) disability income insurance;
- 22 (viii) coverage issued as a supplement to liability insurance;
- 23 (ix) workers' compensation or similar insurance;
- 24 (x) disease-specific insurance;
- 25 (xi) automobile medical payment insurance;
- 26 (xii) dental insurance; or
- 27 (xiii) vision insurance.
- 28 (g) "Health status-related factor" means a factor related to:
- 29 (1) health status;

- 1 (2) medical condition;
- 2 (3) claims experience;
- 3 (4) receipt of health care;
- 4 (5) medical history;
- 5 (6) genetic information;
- 6 (7) evidence of insurability including conditions arising out of acts of
7 domestic violence; or
- 8 (8) disability.

9 (h) "Late enrollee" means:

10 (1) an eligible employee or dependent who requests enrollment in a
11 health benefit plan after the initial enrollment period provided under the health
12 benefit plan; or

13 (2) a self-employed individual described in § 15-1203(c) or (d) of this
14 subtitle or dependent who requests enrollment in a health benefit plan after an
15 annual open enrollment period for self-employed individuals established by the
16 carrier in accordance with regulations adopted by the Commissioner.

17 (i) "Limited Benefit Plan" means the Limited Health Benefit Plan adopted by
18 the Commission in accordance with § 15-1207 of this subtitle and Title 19, Subtitle 1
19 of the Health - General Article.

20 (j) "Pool" means the Maryland Small Employer Health Reinsurance Pool
21 established under this subtitle.

22 (k) "Preexisting condition" means:

23 (1) a condition existing during a specified period immediately preceding
24 the effective date of coverage, that would have caused an ordinarily prudent person to
25 seek medical advice, diagnosis, care, or treatment; or

26 (2) a condition for which medical advice, diagnosis, care, or treatment
27 was recommended or received during a specified period immediately preceding the
28 effective date of coverage.

29 (l) "Preexisting condition provision" means a provision in a health benefit
30 plan that denies, excludes, or limits benefits for an enrollee for expenses or services
31 related to a preexisting condition.

32 (m) "Reinsuring carrier" means a carrier that participates in the Pool.

33 (n) "Risk-assuming carrier" means a carrier that does not participate in the
34 Pool.

1 (o) "Small employer" means:

2 (1) an employer described in § 15-1203 of this subtitle; or

3 (2) an entity that leases employees from a professional employer
4 organization, coemployer, or other organization engaged in employee leasing and that
5 otherwise meets the description of § 15-1203 of this subtitle.

6 (p) "Special enrollment period" means a period during which a group health
7 plan shall permit certain individuals who are eligible for coverage, but not enrolled, to
8 enroll for coverage under the terms of the group health benefit plan.

9 (q) "Standard Plan" means the Comprehensive Standard Health Benefit Plan
10 adopted by the Commission in accordance with § 15-1207 of this subtitle and Title 19,
11 Subtitle 1 of the Health - General Article.

12 15-1202.

13 (a) This subtitle applies only to a health benefit plan that:

14 (1) covers:

15 (I) eligible employees of small employers in the State; [and]

16 (II) AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; AND

17 (III) AN INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS ABOVE
18 350% OF THE FEDERAL POVERTY LEVEL AND WHO DOES NOT ACCEPT
19 EMPLOYER-SPONSORED INSURANCE; AND

20 (2) is issued or renewed on or after July 1, 1994, if:

21 (i) any part of the premium or benefits is paid by or on behalf of
22 the small employer;

23 (ii) any eligible employee or dependent is reimbursed, through
24 wage adjustments or otherwise, by or on behalf of the small employer for any part of
25 the premium;

26 (iii) the health benefit plan is treated by the employer or any
27 eligible employee or dependent as part of a plan or program under the United States
28 Internal Revenue Code, 26 U.S.C. § 106, § 125, or § 162; [or]

29 (iv) the small employer allows eligible employees to pay for the
30 health benefit plan through payroll deductions; OR

31 (V) THE HEALTH BENEFIT PLAN COVERS:

32 1. AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; OR

1 (4) A carrier may request documentation to verify that a person meets
2 the criteria under this subsection to be considered a small employer under this
3 subtitle.

4 (5) Notwithstanding paragraph (1)(i) of this subsection, a person is
5 considered to continue to be a small employer under this subtitle if the person met the
6 conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan
7 in accordance with this subtitle, and subsequently eliminated all but one employee.

8 15-1207.

9 (a) In accordance with Title 19, Subtitle 1 of the Health - General Article, the
10 Commission shall adopt regulations that specify:

11 (1) the Comprehensive Standard Health Benefit Plan to apply under this
12 subtitle; and

13 (2) the Limited Health Benefit Plan to apply under this subtitle.

14 (b) The Commission shall require that the minimum benefits allowed to be
15 offered in the Standard Plan:

16 (1) by a health maintenance organization, shall include at least the
17 actuarial equivalent of the minimum benefits required to be offered by a federally
18 qualified health maintenance organization; [and]

19 (2) by an insurer or nonprofit health service plan on an
20 expense-incurred basis, shall be actuarially equivalent to at least the minimum
21 benefits required to be offered under item (1) of this subsection; AND

22 (3) SHALL INCLUDE ALL OF THE BENEFITS THAT EXISTED IN THE PLAN
23 AS OF JUNE 1, 2005.

24 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
25 exclude or limit ADDITIONAL benefits or adjust cost-sharing arrangements in the
26 Standard Plan if the average rate for the Standard Plan exceeds [10%] 12% of the
27 average annual wage in the State.

28 (2) The Commission annually shall determine the average rate for the
29 Standard Plan by using the average rate submitted by each carrier that offers the
30 Standard Plan.

31 (d) In establishing benefits under the Standard Plan and the Limited Benefit
32 Plan, the Commission shall judge preventive services, medical treatments,
33 procedures, and related health services based on:

34 (1) their effectiveness in improving the health status of individuals;

35 (2) their impact on maintaining and improving health and on reducing
36 the unnecessary consumption of health care services; and

1 (3) their impact on the affordability of health care coverage.

2 (e) The Commission may exclude from the Standard Plan or the Limited
3 Benefit Plan:

4 (1) a health care service, benefit, coverage, or reimbursement for covered
5 health care services that is required under this article or the Health - General Article
6 to be provided or offered in a health benefit plan that is issued or delivered in the
7 State by a carrier; or

8 (2) reimbursement required by statute, by a health benefit plan for a
9 service when that service is performed by a health care provider who is licensed under
10 the Health Occupations Article and whose scope of practice includes that service.

11 (f) The Standard Plan and the Limited Benefit Plan shall include uniform
12 deductibles and cost-sharing associated with its benefits, as determined by the
13 Commission.

14 (g) In establishing cost-sharing as part of the Standard Plan and the Limited
15 Benefit Plan, the Commission shall:

16 (1) include cost-sharing and other incentives to help prevent consumers
17 from seeking unnecessary services;

18 (2) balance the effect of cost-sharing in reducing premiums and in
19 affecting utilization of appropriate services; and

20 (3) limit the total cost-sharing that may be incurred by an individual in
21 a year.

22 **Article - Tax - General**

23 12-105.

24 (a) The tobacco tax rate for cigarettes is:

25 (1) [50] 75 cents for each package of 10 or fewer cigarettes;

26 (2) [\$1.00] \$1.50 for each package of at least 11 and not more than 20
27 cigarettes;

28 (3) [5.0] 7.5 cents for each cigarette in a package of more than 20
29 cigarettes; and

30 (4) [5.0] 7.5 cents for each cigarette in a package of free sample
31 cigarettes.

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

Article - Health - General

1

2 8-101.

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

4 (b) "Administration" means the Alcohol and Drug Abuse Administration.

5 8-402.

6 (a) The Administration shall:

7 (1) Plan and encourage development of, and coordinate the facilities and
8 services that offer treatment, care, or rehabilitation for alcohol and drug abusers; and

9 (2) Adopt regulations:

10 (i) To set standards for treatment, care, and rehabilitation of
11 alcohol and drug abusers; and12 (ii) To ensure that before a facility is certified under this title to
13 provide treatment, care, or rehabilitation of alcohol or drug abusers, an opportunity to
14 comment, concerning whether the facility meets certification requirements, is
15 provided to representatives of the county government and, if in a municipal
16 corporation, the municipal government and to private citizens in the community
17 where the facility is proposed to be located.18 [(b) The Administration may establish and operate or identify facilities and
19 services, including evaluation facilities to determine if an individual is a drug abuser
20 or alcohol abuser or dependent on drugs or alcohol.21 (c) A facility that the Administration operates or contracts to be operated is a
22 health facility and is not, for any purpose, a correctional institution.23 (d) An individual may not be discriminated against based on an inability to
24 pay for any services provided by the Administration either directly or by contract.25 (e) To carry out the purposes of this title, the Administration may contract
26 with any appropriate public or private agency that has proper and adequate
27 treatment facilities, services, and staff.28 (f) (B) (1) The Administration shall evaluate the success and effectiveness
29 of each alcohol abuse and drug abuse treatment program licensed or certified under
30 this subtitle by performing outcome research studies on a representative sample of
31 individuals who have received treatment under those programs to determine the
32 extent to which the individuals:33 (i) Have been successfully discharged from the treatment program;
34 and

1 (ii) Have successfully controlled their alcohol and drug abuse
2 problems after being discharged from the program.

3 (2) The Administration shall adopt any reasonable regulations necessary
4 to permit the Administration to perform the outcome research studies required under
5 paragraph (1) of this subsection.

6 (3) The outcome research studies shall be conducted in a manner to
7 protect the confidentiality of the individual and in accordance with the provisions of
8 Subtitle 6 of this title.

9 (4) The Administration shall establish an Alcohol and Drug Abuse
10 Treatment Research Advisory Committee to:

11 (i) Develop the methodology necessary to conduct the outcome
12 research studies; and

13 (ii) Advise the Administration on any reasonable regulations
14 necessary to perform the outcome research studies in accordance with this subsection.
15 8-403.

16 (a) In this section, "alcohol abuse and drug abuse treatment [program]":

17 (1) Means] PROGRAM" MEANS any individual or organization that
18 provides treatment, care, or rehabilitation for individuals who show the effects of
19 drug abuse or alcohol abuse, and represents or advertises itself as an alcohol abuse or
20 drug abuse treatment [program; and

21 (2) Includes a program or facility that is owned or operated by this State
22 or any of its political subdivisions] PROGRAM.

23 (b) Except as otherwise provided in this section, an alcohol abuse and drug
24 abuse treatment program shall be certified by the Department before program
25 services may be provided in this State.

26 (c) This section does not apply to:

27 (1) A health professional licensed under the Health Occupations Article
28 who is treating patients within the scope of the professional's practice and who does
29 not advertise the practice as an alcohol abuse or drug abuse program;

30 (2) Alcoholics Anonymous, Narcotics Anonymous, transitional housing
31 programs, or other similar organizations, if the organization holds meetings or
32 provides support services to help individuals who show the effects of drug abuse or
33 alcohol abuse; or

34 (3) An employees' assistance program of a business entity.

35 (d) Unless requested, the certification requirements of this section do not
36 apply to a hospital as defined in § 19-301 of this article accredited by the Joint

1 Commission on Accreditation of Hospitals with a separately accredited alcohol and
2 drug abuse program.

3 (e) An intermediate care facility, alcoholic (type C or D), shall be certified as
4 an intermediate care alcohol abuse and drug abuse treatment facility.

5 10-104.

6 (A) Notwithstanding any other provision of law, this title applies to a person
7 who is licensed under Title 19 of this article if the person provides care or treatment
8 to individuals who have mental disorders.

9 (B) THE DEPARTMENT SHALL PROVIDE SERVICES UNDER THIS TITLE TO AN
10 INDIVIDUAL WHO:

11 (1) IS UNINSURED;

12 (2) IS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM;
13 OR

14 (3) HAS HEALTH COVERAGE IN A PUBLIC OR PRIVATE PROGRAM, IF THE
15 INDIVIDUAL IS CHARGED AT FULL COST FOR SERVICES PROVIDED UNDER THIS
16 TITLE.

17 10-901.

18 (a) (1) The Secretary shall adopt rules and regulations that set standards
19 for:

20 (i) Eligibility for State funding of local mental health programs
21 under Part I of this subtitle;

22 (ii) Qualifications of staff and quality of professional services of
23 eligible programs;

24 (iii) Eligibility for AND COSTS OF receiving services under eligible
25 programs; and

26 (iv) Accreditation of a facility as defined in § 10-101(e) of this title.

27 (2) The Secretary may consider accreditation by the Joint Commission
28 on Accreditation of Healthcare Organizations (JCAHO) or the Commission on
29 Accreditation of Rehabilitation Facilities (CARF), whichever is appropriate, as
30 meeting the rules and regulations adopted under this subtitle.

31 (3) The rules and regulations shall ensure:

32 (i) That an individual is not discriminated against based on an
33 inability to pay for services; and

1 (ii) That an individual is not discriminated against or denied
2 community-based mental health services based on the individual's lack of a fixed
3 address or because the individual is homeless.

4 (b) The Secretary shall:

5 (1) Through the regional mental health director, provide a county with
6 consultative staff services to help ascertain local needs and plan and establish local
7 mental health programs;

8 (2) Review and evaluate local programs and personnel practices;

9 (3) Make recommendations to the governing body, health officer of a
10 county, and the director of the Montgomery County Department of Health and
11 Human Services on the local program and personnel practices;

12 (4) Review and either approve or disapprove the plans and budgets that
13 a county governing body submits for State funding under Part I of this subtitle; and

14 (5) Exercise any other power or duty required to carry out Part I of this
15 subtitle.

16 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article - Health - General**

19 15-103.

20 (a) (1) The Secretary shall administer the Maryland Medical Assistance
21 Program.

22 (2) The Program:

23 (i) Subject to the limitations of the State budget, shall provide
24 comprehensive medical and other health care services for indigent individuals or
25 medically indigent individuals or both;

26 (ii) Shall provide, subject to the limitations of the State budget,
27 comprehensive medical and other health care services for all eligible pregnant women
28 whose family income is at or below 250 percent of the poverty level, as permitted by
29 the federal law;

30 (iii) Shall provide, subject to the limitations of the State budget,
31 comprehensive medical and other health care services for all eligible children
32 currently under the age of 1 whose family income falls below 185 percent of the
33 poverty level, as permitted by federal law;

34 (iv) Shall provide, subject to the limitations of the State budget,
35 family planning services to women currently eligible for comprehensive medical care

1 and other health care under item (ii) of this paragraph for 5 years after the second
2 month following the month in which the woman delivers her child;

3 (v) Shall provide, subject to the limitations of the State budget,
4 comprehensive medical and other health care services for all children from the age of
5 1 year up through and including the age of 5 years whose family income falls below
6 133 percent of the poverty level, as permitted by the federal law;

7 (vi) Shall provide, subject to the limitations of the State budget,
8 comprehensive medical care and other health care services for all children born after
9 September 30, 1983 who are at least 6 years of age but are under 19 years of age
10 whose family income falls below 100 percent of the poverty level, as permitted by
11 federal law;

12 (vii) Shall provide, subject to the limitations of the State budget,
13 comprehensive medical care and other health care services for all legal immigrants
14 who meet Program eligibility standards and who arrived in the United States before
15 August 22, 1996, the effective date of the federal Personal Responsibility and Work
16 Opportunity Reconciliation Act, as permitted by federal law;

17 (viii) Shall provide, subject to the limitations of the State budget and
18 any other requirements imposed by the State, comprehensive medical care and other
19 health care services for all legal immigrant children under the age of 18 years and
20 pregnant women who meet Program eligibility standards and who arrived in the
21 United States on or after August 22, 1996, the effective date of the federal Personal
22 Responsibility and Work Opportunity Reconciliation Act;

23 (ix) Shall provide, subject to the limitations of the State budget and
24 any other requirements imposed by the State, comprehensive medical care and other
25 health care services for all parents whose annual household income is at or below
26 [100] 150 percent of the federal poverty level;

27 (x) May include bedside nursing care for eligible Program
28 recipients; and

29 (xi) Shall provide services in accordance with funding restrictions
30 included in the annual State budget bill.

31 (3) Subject to restrictions in federal law or waivers, the Department may
32 impose cost-sharing on Program recipients.

33 (4) In administering the Program, the Department:

34 (i) May not require an asset test for parents and children;

35 (ii) Shall allow self-declaration of income and eligibility
36 information required for the application process, except where the State has reason to
37 question the information provided;

1 (iii) Shall establish renewal procedures that allow enrollees to verify
2 information by mail; and

3 (iv) Shall guarantee an enrollment period for 12 months, except in
4 cases of fraud or misrepresentation in the application.

5 SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article - Insurance**

8 Part I. [Maryland Health Insurance Plan] MDCARE.

9 14-501.

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

11 (b) "Administrator" means:

12 (1) a person that is registered as an Administrator under Title 8, Subtitle
13 3 of this article; or

14 (2) a carrier as defined under subsection (d) of this section.

15 (c) "Board" means the Board of Directors for [the Maryland Health Insurance
16 Plan] MDCARE.

17 (d) "Carrier" means:

18 (1) an authorized insurer that provides health insurance in the State;

19 (2) a nonprofit health service plan that is licensed to operate in the
20 State; or

21 (3) a health maintenance organization that is licensed to operate in the
22 State.

23 (e) "Creditable coverage" has the meaning stated in § 15-1301 of this article.

24 (f) "Eligible individual" has the meaning stated in § 15-1301 of this article.

25 (g) "Fund" means the [Maryland Health Insurance Plan] MDCARE Fund.

26 [(h) (1) "Medically uninsurable individual" means an individual who is a
27 resident of the State and who:

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

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

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

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

8 (v) is eligible for the tax credit for health insurance costs under § 35
9 of the Internal Revenue Code; or

10 (vi) is a dependent of an individual who is eligible for coverage
11 under this subsection.

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

14 (i) the federal Medicare program;

15 (ii) the Maryland Medical Assistance Program;

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

17 (iv) an employer-sponsored group health insurance plan that
18 includes benefits comparable to Plan benefits, unless the individual is eligible for the
19 tax credit for health insurance costs under § 35 of the Internal Revenue Code.

20 (i) "Plan" means the Maryland Health Insurance Plan.

21 (j)] (H) "Plan of operation" means the articles, bylaws, and operating rules
22 and procedures adopted by the Board in accordance with § 14-503 of this subtitle.

23 (I) (1) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL:

24 (I) WHO IS A RESIDENT OF THE STATE;

25 (II) WHOSE ANNUAL FAMILY INCOME:

26 1. IN FISCAL YEAR 2006, IS BELOW 150% OF THE FEDERAL
27 POVERTY LEVEL; OR

28 2. IN FISCAL YEAR 2007 AND EACH FISCAL YEAR
29 THEREAFTER, IS BELOW 350% OF THE FEDERAL POVERTY LEVEL; AND

30 (III) WHOSE EMPLOYER:

31 1. OFFERS HEALTH INSURANCE COVERAGE THAT:

1 A. DOES NOT OFFER BENEFITS COMPARABLE TO THE
2 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
3 ARTICLE; OR

4 B. COSTS MORE THAN 3% OF THE INCOME OF THE
5 UNINSURED INDIVIDUAL FOR INDIVIDUAL COVERAGE OR MORE THAN 6% OF THE
6 INCOME OF THE UNINSURED INDIVIDUAL FOR FAMILY COVERAGE; OR

7 2. OFFERS NO HEALTH INSURANCE COVERAGE.

8 (2) "UNINSURED INDIVIDUAL" DOES NOT INCLUDE AN INDIVIDUAL:

9 (I) WHO IS ELIGIBLE FOR COVERAGE UNDER:

10 1. THE FEDERAL MEDICARE PROGRAM;

11 2. THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

12 3. THE MARYLAND CHILDREN'S HEALTH PROGRAM; OR

13 4. AN EMPLOYER-SPONSORED GROUP HEALTH INSURANCE
14 PLAN THAT INCLUDES AT LEAST ALL OF THE BENEFITS OFFERED IN THE
15 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
16 ARTICLE AND DOES NOT COST MORE THAN 3% OF THE INCOME OF THE UNINSURED
17 INDIVIDUAL FOR INDIVIDUAL COVERAGE OR MORE THAN 6% OF THE INCOME OF THE
18 UNINSURED INDIVIDUAL FOR FAMILY COVERAGE; OR

19 (II) WHOSE EMPLOYER, IN THE LAST 6 MONTHS:

20 1. TERMINATED THE INDIVIDUAL'S COVERAGE;

21 2. DECREASED BENEFITS BELOW THE LEVEL REQUIRED IN
22 THE COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
23 ARTICLE; OR

24 3. INCREASED THE COST OF COVERAGE TO BE MORE THAN
25 3% OF THE INCOME OF THE UNINSURED INDIVIDUAL FOR INDIVIDUAL COVERAGE OR
26 MORE THAN 6% OF THE INCOME OF THE UNINSURED INDIVIDUAL FOR FAMILY
27 COVERAGE.

28 14-502.

29 [(a) There is a Maryland Health Insurance Plan.

30 (b)] (A) [The Plan is an independent unit that operates within the
31 Administration] MDCARE IS ESTABLISHED AS A QUASI-PUBLIC NONPROFIT
32 CORPORATION NOT TO BE CONSIDERED AN INSTRUMENTALITY OF STATE
33 GOVERNMENT, EXCEPT AS PROVIDED BY STATUTE.

34 [(c)] (B) The purpose of [the Plan is to decrease uncompensated care costs by
35 providing access to affordable, comprehensive health benefits for medically

1 uninsurable residents of the State by July 1, 2003] MDCARE IS TO PROVIDE
2 AFFORDABLE, COMPREHENSIVE HEALTH BENEFITS FOR UNINSURED INDIVIDUALS
3 WITHOUT ACCESS TO AFFORDABLE, EMPLOYER-SPONSORED HEALTH COVERAGE.

4 [(d)] (C) It is the intent of the General Assembly that [the Plan] MDCARE
5 operate as a nonprofit entity and that Fund revenue, to the extent consistent with
6 good business practices, be used to subsidize health insurance coverage for [medically
7 uninsurable individuals] UNINSURED INDIVIDUALS.

8 14-503.

9 (a) There is a Board for [the Plan] MDCARE.

10 (b) [The Plan] MDCARE shall operate subject to the supervision and control of
11 the Board.

12 (c) The Board consists of [nine] 15 members, of whom:

13 (1) one shall be the Commissioner;

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

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

18 (4) one shall be the Secretary of the Department of Budget and
19 Management;

20 (5) [two] FOUR shall be appointed by the Director of the Health,
21 Education, and Advocacy Unit in the Office of the Attorney General in accordance
22 with subsection (d) of this section;

23 (6) one shall be appointed by the Commissioner to represent carriers
24 operating in the State;

25 (7) one shall be appointed by the Commissioner to represent insurance
26 producers selling insurance in the State; [and]

27 (8) one shall be an individual who is an owner or employee of a
28 minority-owned business in the State, appointed by the Governor;

29 (9) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
30 THE DISABILITIES COMMUNITY;

31 (10) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
32 THE SMALL BUSINESS COMMUNITY;

33 (11) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
34 LABOR UNIONS; AND

1 (12) TWO SHALL BE PHYSICIANS APPOINTED BY THE COMMISSIONER TO
2 REPRESENT THE CONCERNS OF MEDICAL PROVIDERS, ONE OF WHOM SHALL
3 REPRESENT THE MONUMENTAL CITY MEDICAL SOCIETY.

4 (d) (1) THE FOUR BOARD MEMBERS APPOINTED UNDER SUBSECTION (C)(5)
5 OF THIS SECTION SHALL BE CONSUMERS OF HEALTH SERVICES, ONE EACH FROM
6 THE EASTERN SHORE, CENTRAL MARYLAND, METRO-D.C. AREA, AND WESTERN
7 MARYLAND.

8 [(1)] (2) (i) [Each Board member appointed under subsection (c)(5) of
9 this section shall be a consumer who does] THE CONSUMER MEMBERS MAY not have
10 a substantial financial interest in a person regulated under this article or under Title
11 19, Subtitle 7 of the Health - General Article.

12 (ii) One of the Board members appointed under subsection (c)(5) of
13 this section shall be a member of a racial minority.

14 [(2)] (3) The term of an appointed member is 4 years.

15 [(3)] (4) At the end of a term, an appointed member continues to serve
16 until a successor is appointed and qualifies.

17 [(4)] (5) An appointed member who is appointed after a term has begun
18 serves only for the rest of the term and until a successor is appointed and qualifies.

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

21 (f) (1) The Board shall appoint an Executive Director who shall be the chief
22 [administrative] EXECUTIVE officer of [the Plan] MDCARE.

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

24 (3) The Board shall determine the appropriate compensation for the
25 Executive Director.

26 (4) Under the direction of the Board, the Executive Director shall
27 perform any duty or function that is necessary for the operation of [the Plan]
28 MDCARE.

29 [(g)] The Board is not subject to:

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

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

33 (3) the provisions of Divisions II and III of the State Personnel and
34 Pensions Article.

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

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

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

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

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

9 (i) residency requirements for Plan enrollees;

10 (ii) Plan enrollment procedures; and

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

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

16 (l)] (G) For those members enrolled in [the Plan] MDCARE whose eligibility
17 in [the Plan] MDCARE is subject to the requirements of the federal tax credit for
18 health insurance costs under Section 35 of the Internal Revenue Code, the Board
19 shall report on or before December 1, 2003, and annually thereafter, to the Governor,
20 and subject to § 2-1246 of the State Government Article, to the General Assembly on
21 the number of members enrolled in [the Plan] MDCARE and the costs to [the Plan]
22 MDCARE associated with providing insurance to those members.

23 14-503.1.

24 (A) MDCARE IS NOT SUBJECT TO:

25 (1) THE PROVISIONS OF THE STATE FINANCE AND PROCUREMENT
26 ARTICLE;

27 (2) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
28 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM;
29 OR

30 (3) THE PROVISIONS OF DIVISIONS II AND III OF THE STATE PERSONNEL
31 AND PENSIONS ARTICLE.

32 (B) EMPLOYEES OF MDCARE MAY ENGAGE IN COLLECTIVE BARGAINING.

33 (C) (1) MDCARE SHALL ADOPT A PLAN OF OPERATION.

34 (2) MDCARE SHALL SUBMIT THE PLAN OF OPERATION AND ANY
35 AMENDMENT TO THE PLAN OF OPERATION TO THE COMMISSIONER FOR APPROVAL.

1 (D) ON AN ANNUAL BASIS, MDCARE SHALL SUBMIT TO THE COMMISSIONER
2 AN AUDITED FINANCIAL REPORT OF THE FUND PREPARED BY AN INDEPENDENT
3 CERTIFIED PUBLIC ACCOUNTANT.

4 (E) (1) MDCARE SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT
5 THE PROVISIONS OF THIS SUBTITLE.

6 (2) REGULATIONS ADOPTED BY MDCARE MAY INCLUDE:

7 (I) RESIDENCY REQUIREMENTS FOR MDCARE ENROLLEES;

8 (II) MDCARE ENROLLMENT PROCEDURES; AND

9 (III) ANY OTHER MDCARE REQUIREMENTS AS DETERMINED BY
10 MDCARE.

11 (F) IN ORDER TO MAXIMIZE VOLUME DISCOUNTS ON THE COST OF
12 PRESCRIPTION DRUGS, THE BOARD MAY AGGREGATE THE PURCHASING OF
13 PRESCRIPTION DRUGS FOR ENROLLEES IN MDCARE, ENROLLEES IN THE SENIOR
14 PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER PART II OF THIS SUBTITLE,
15 AND ENROLLEES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM, AS ALLOWED
16 BY FEDERAL LAW OR WAIVER.

17 14-504.

18 (a) (1) There is a [Maryland Health Insurance Plan] MDCARE Fund.

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

21 (3) The Treasurer shall separately hold and the Comptroller shall
22 account for the Fund.

23 (4) The Fund shall be invested and reinvested at the direction of the
24 Board in a manner that is consistent with the requirements of Title 5, Subtitle 6 of
25 this article.

26 (5) Any investment earnings shall be retained to the credit of the Fund.

27 (6) On an annual basis, the Fund shall be subject to an independent
28 actuarial review setting forth an opinion relating to reserves and related actuarial
29 items held in support of policies and contracts.

30 (7) The Fund shall be used only to provide funding for the purposes
31 authorized under this subtitle.

32 (b) The Fund shall consist of:

33 (1) premiums for coverage that [the Plan] MDCARE issues;

- 1 (2) except as provided in § 14-513(a) of this subtitle, premiums paid by
2 enrollees of the Senior Prescription Drug Program;
- 3 (3) money collected in accordance with § 19-219 of the Health - General
4 Article;
- 5 (4) money deposited by a carrier in accordance with § 14-513 of this
6 subtitle;
- 7 (5) income from investments that the Board makes or authorizes on
8 behalf of the Fund;
- 9 (6) interest on deposits or investments of money from the Fund;
- 10 (7) premium tax revenue collected under § 14-107 of this title;
- 11 (8) money collected by the Board as a result of legal or other actions
12 taken by the Board on behalf of the Fund;
- 13 (9) money donated to the Fund; [and]
- 14 (10) money awarded to the Fund through grants; AND
- 15 (11) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.

16 (c) (1) The Board may allow the Administrator to use premiums collected by
17 the Administrator from [Plan] MDCARE enrollees to pay claims for [Plan] MDCARE
18 enrollees.

19 (2) The Administrator:

20 (i) shall deposit all premiums for [Plan] MDCARE enrollees in a
21 separate account, titled in the name of the State of Maryland, for [the Maryland
22 Health Insurance Plan] MDCARE; and

23 (ii) may use money in the account only to pay claims for [Plan]
24 MDCARE enrollees.

25 (3) The Administrator shall keep complete and accurate records of all
26 transactions for the separate account.

27 (4) By the 15th of the following month, if monthly premiums collected by
28 the Administrator exceed monthly claims received, the Administrator shall deposit
29 the remaining balance, including interest, for that month in the Fund.

30 (d) (1) The Board shall take steps necessary to ensure that [Plan] MDCARE
31 enrollment does not exceed the number of enrollees [the Plan] MDCARE has the
32 financial capacity to insure.

33 (2) The Board may adopt regulations to limit the enrollment of otherwise
34 eligible medically uninsurable individuals whose premium is paid for by a

1 pharmaceutical manufacturer or its affiliate if the Board determines that their
2 enrollment would have an adverse financial impact on [the Plan] MDCARE.

3 (e) (1) In addition to the operation and administration of [the Plan]
4 MDCARE, the Fund shall be used for the operation and administration of the Senior
5 Prescription Drug Program established under Part II of this subtitle.

6 (2) The Board shall maintain separate accounts within the Fund for the
7 Senior Prescription Drug Program and [the Maryland Health Insurance Plan]
8 MDCARE.

9 (3) Accounts within the Fund shall contain those moneys that are
10 intended to support the operation of the Program for which the account is designated.

11 [(f) A debt or obligation of the Plan is not a debt of the State or a pledge of
12 credit of the State.]

13 14-505.

14 (a) (1) The Board shall establish a standard benefit package to be offered by
15 [the Plan] MDCARE.

16 [(2) The Board may exclude from the benefit package:

17 (i) a health care service, benefit, coverage, or reimbursement for
18 covered health care services that is required under this article or the Health -
19 General Article to be provided or offered in a health benefit plan that is issued or
20 delivered in the State by a carrier; or

21 (ii) reimbursement required by statute, by a health benefit plan for
22 a service when that service is performed by a health care provider who is licensed
23 under the Health Occupations Article and whose scope of practice includes that
24 service.]

25 (2) THE BENEFIT PACKAGE:

26 (I) MAY NOT RESTRICT THE NUMBER OF DAYS AUTHORIZED FOR
27 INPATIENT PSYCHIATRIC CARE; AND

28 (II) SHALL INCLUDE THE FOLLOWING:

29 1. BENEFITS EQUAL TO THE COMPREHENSIVE STANDARD
30 HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS ARTICLE;

31 2. DENTAL SERVICES;

32 3. HEARING AIDS;

33 4. SMOKING CESSATION PROGRAMS; AND

1 5. CORE PREVENTIVE SERVICES RECOMMENDED BY THE
2 UNITED STATES PREVENTATIVE SERVICES TASK FORCE.

3 (3) THE BOARD SHALL ENSURE THAT ENROLLEES MAY SELECT
4 FEDERALLY QUALIFIED HEALTH CENTERS AND SCHOOL-BASED HEALTH CENTERS
5 AS THEIR PRIMARY CARE PROVIDER AND THAT THE CENTERS ARE FULLY
6 INTEGRATED INTO THE MDCARE PLAN.

7 [(b) (1) The Board shall establish a premium rate for Plan coverage subject to
8 review and approval by the Commissioner.

9 (2) The premium rate may vary on the basis of family composition.

10 (3) If the Board determines that a standard risk rate would create
11 market dislocation, the Board may adjust the premium rate based on member age.

12 (c) (1) The Board shall determine a standard risk rate by considering the
13 premium rates charged by carriers in the State for coverage comparable to that of the
14 Plan.

15 (2) The premium rate for Plan coverage:

16 (i) may not be less than 110% of the standard risk rate established
17 under paragraph (1) of this subsection; and

18 (ii) may not exceed 200% of the standard risk rate.

19 (3) Premium rates shall be reasonably calculated to encourage
20 enrollment in the Plan.

21 (4) The Board may subsidize premiums, deductibles, and other policy
22 expenses, based on a member's income.]

23 (B) (1) THIS SUBSECTION APPLIES ONLY TO FISCAL YEAR 2006.

24 (2) THE BOARD MAY NOT CHARGE A PREMIUM FOR AN UNINSURED
25 INDIVIDUAL.

26 (3) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
27 AT OR BELOW 100% OF THE FEDERAL POVERTY LEVEL, THE BOARD MAY NOT IMPOSE
28 ANY COST-SHARING REQUIREMENTS.

29 (4) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
30 ABOVE 100% BUT BELOW 150% OF THE FEDERAL POVERTY LEVEL, THE BOARD:

31 (I) MAY NOT REQUIRE A DEDUCTIBLE; AND

32 (II) SHALL REQUIRE:

33 1. A \$10 CO-PAY; AND

1 (iii) an estimate of total charges for administering the [Plan]
2 MDCARE;

3 (iv) the Administrator's proven ability to apply effective cost
4 containment programs and procedures; and

5 (v) the financial condition and stability of the Administrator.

6 (b) [The] AN Administrator shall serve for a period of time specified in its
7 contract with [the Plan] MDCARE subject to removal for cause and any other terms,
8 conditions, and limitations contained in the contract.

9 (c) [The] AN Administrator shall perform functions relating to [the Plan]
10 MDCARE as required by the Board, including:

11 (1) determination of eligibility;

12 (2) data collection;

13 (3) case management;

14 (4) financial tracking and reporting;

15 (5) payment of claims; and

16 (6) premium billing.

17 (d) (1) Each year, [the Plan] A MDCARE Administrator shall submit to the
18 Commissioner an accounting of medical claims incurred, administrative expenses,
19 and premiums collected.

20 (2) [Plan] MDCARE losses shall be certified by the Commissioner in
21 accordance with paragraph (3) of this subsection and returned to the Administrator
22 by the Board.

23 (3) Administrative expenses and fees shall be paid as provided in [the]
24 AN Administrator's contract with the Board.

25 (e) (1) The Board may contract with a qualified, independent third party for
26 any service necessary to carry out the powers and duties of the Board.

27 (2) Unless permission is granted specifically by the Board, a third party
28 hired by the Board may not release, publish, or otherwise use any information to
29 which the third party had access under its contract.

30 (f) [The] AN Administrator shall submit regular reports to the Board
31 regarding the operation of [the Plan] MDCARE.

32 (g) [The] AN Administrator shall submit an annual report to the Board that
33 includes:

- 1 (1) the net written and earned premiums for the year;
- 2 (2) the expense of the administration for the year; and
- 3 (3) the paid and incurred losses for the year.

4 14-507.

5 It is unlawful and a violation of this article for a carrier, insurance producer, or
6 third party administrator to refer an individual employee to [the Plan] MDCARE, or
7 arrange for an individual employee to apply to [the Plan] MDCARE, for the purpose of
8 separating that employee from the group health insurance coverage provided through
9 the employee's employer.

10 14-508.

11 (a) [The Plan] MDCARE shall be the alternative mechanism for eligible
12 individuals under the federal Health Insurance Portability and Accountability Act in
13 accordance with 45 CFR 148.128.

14 (b) [The Plan] MDCARE may not apply a preexisting condition exclusion to an
15 eligible individual who applies for coverage under [the Plan] MDCARE within 63 days
16 of terminating prior creditable coverage.

17 (c) If the Board imposes a limit on the number of individuals who can
18 participate in [the Plan] MDCARE, the limit may not be applied to HIPAA eligible
19 individuals.

20 14-509.

21 (A) IN COLLABORATION WITH HOSPITALS, PHYSICIANS, AND OTHER HEALTH
22 CARE PRACTITIONERS IN THE STATE, THE BOARD SHALL ESTABLISH THE MARYLAND
23 QUALITY INSTITUTE.

24 (B) THE MARYLAND QUALITY INSTITUTE SHALL:

25 (1) FOCUS ON IMPROVING THE QUALITY OF HEALTH CARE FOR
26 RESIDENTS OF THE STATE; AND

27 (2) DEVELOP STANDARDIZED CLINICAL PRACTICE GUIDELINES TO BE
28 DISTRIBUTED TO PRIVATE AND PUBLIC HEALTH PLANS AND PROVIDER
29 ORGANIZATIONS IN THE STATE.

30 14-509.1.

31 (A) THERE IS A MDCARE UNIVERSAL COVERAGE OVERSIGHT COMMISSION.

32 (B) THE PURPOSE OF THE COMMISSION IS TO STUDY THE IMPLEMENTATION
33 OF UNIVERSAL HEALTH COVERAGE.

34 (C) THE COMMISSION CONSISTS OF:

- 1 (1) THE COMMISSIONER;
- 2 (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
- 3 (3) THE CHAIRMAN OF THE MARYLAND HEALTH CARE COMMISSION;
- 4 AND

5 (4) THE FOLLOWING FOUR MEMBERS APPOINTED JOINTLY BY THE
6 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE:

- 7 (I) A HEALTH ECONOMIST;
- 8 (II) A HEALTH CARE PRACTITIONER IN THE STATE;
- 9 (III) A BUSINESS REPRESENTATIVE; AND
- 10 (IV) A CONSUMER REPRESENTATIVE NOMINATED BY THE
11 MARYLAND CITIZEN'S HEALTH INITIATIVE.

12 (D) THE COMMISSION SHALL ELECT A CHAIRMAN FROM AMONG ITS
13 MEMBERS.

14 (E) THE MARYLAND HEALTH CARE COMMISSION SHALL STAFF THE
15 COMMISSION.

16 (F) THE COMMISSION SHALL STUDY:

17 (1) THE STATE'S PROGRESS TOWARD ACHIEVING UNIVERSAL HEALTH
18 COVERAGE;

19 (2) APPROPRIATE MEANS OF CLOSING ANY GAPS IN UNIVERSAL HEALTH
20 COVERAGE;

21 (3) THE IMPACT OF THE EMPLOYER COVERAGE REQUIREMENT ON
22 EMPLOYMENT LEVELS IN THE STATE; AND

23 (4) THE APPROPRIATENESS OF THE MDCARE BENEFIT PACKAGE,
24 INCLUDING WAYS TO FINANCE ANY RECOMMENDED CHANGES TO THE BENEFIT
25 PACKAGE.

26 (G) ON OR BEFORE SEPTEMBER 1, 2009, AND ON OR BEFORE EACH SEPTEMBER
27 1 THEREAFTER, THE COMMISSION SHALL REPORT ITS FINDINGS AND
28 RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
29 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

30 14-510.

31 (a) In Part II of this subtitle the following words have the meanings indicated.

32 (b) "Eligible individual" means an individual who:

- 1 (1) is a resident of Maryland;
- 2 (2) is a Medicare beneficiary;
- 3 (3) is not enrolled in a Medicare Plus Choice managed care program or
4 other insurance program that provides prescription drug benefits at the time that the
5 individual applies for enrollment in [the Plan] MDCARE;
- 6 (4) has an annual household income at or below 300% of the federal
7 poverty guidelines; and
- 8 (5) pays the premium and copayments for [the Plan] MDCARE.
- 9 (c) "Enrollee" means an individual enrolled in [the Plan] MDCARE.
- 10 (d) "Program" means the Senior Prescription Drug Program established under
11 Part II of this subtitle.

12 SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Health - General**

15 15-103.

- 16 (a) (1) The Secretary shall administer the Maryland Medical Assistance
17 Program.
- 18 (2) The Program:
- 19 (i) Subject to the limitations of the State budget, shall provide
20 comprehensive medical and other health care services for indigent individuals or
21 medically indigent individuals or both;
- 22 (ii) Shall provide, subject to the limitations of the State budget,
23 comprehensive medical and other health care services for all eligible pregnant women
24 whose family income is at or below 250 percent of the poverty level, as permitted by
25 the federal law;
- 26 (iii) Shall provide, subject to the limitations of the State budget,
27 comprehensive medical and other health care services for all eligible children
28 currently under the age of 1 whose family income falls below 185 percent of the
29 poverty level, as permitted by federal law;
- 30 (iv) Shall provide, subject to the limitations of the State budget,
31 family planning services to women currently eligible for comprehensive medical care
32 and other health care under item (ii) of this paragraph for 5 years after the second
33 month following the month in which the woman delivers her child;

1 (v) Shall provide, subject to the limitations of the State budget,
2 comprehensive medical and other health care services for all children from the age of
3 1 year up through and including the age of 5 years whose family income falls below
4 133 percent of the poverty level, as permitted by the federal law;

5 (vi) Shall provide, subject to the limitations of the State budget,
6 comprehensive medical care and other health care services for all children born after
7 September 30, 1983 who are at least 6 years of age but are under 19 years of age
8 whose family income falls below 100 percent of the poverty level, as permitted by
9 federal law;

10 (vii) Shall provide, subject to the limitations of the State budget,
11 comprehensive medical care and other health care services for all legal immigrants
12 who meet Program eligibility standards and who arrived in the United States before
13 August 22, 1996, the effective date of the federal Personal Responsibility and Work
14 Opportunity Reconciliation Act, as permitted by federal law;

15 (viii) Shall provide, subject to the limitations of the State budget and
16 any other requirements imposed by the State, comprehensive medical care and other
17 health care services for all legal immigrant children under the age of 18 years and
18 pregnant women who meet Program eligibility standards and who arrived in the
19 United States on or after August 22, 1996, the effective date of the federal Personal
20 Responsibility and Work Opportunity Reconciliation Act;

21 (ix) Shall provide, subject to the limitations of the State budget and
22 any other requirements imposed by the State, comprehensive medical care and other
23 health care services for all parents whose annual household income is at or below
24 [150] 200 percent of the federal poverty level;

25 (x) May include bedside nursing care for eligible Program
26 recipients; and

27 (xi) Shall provide services in accordance with funding restrictions
28 included in the annual State budget bill.

29 (3) Subject to restrictions in federal law or waivers, the Department may
30 impose cost-sharing on Program recipients.

31 (4) In administering the Program, the Department:

32 (i) May not require an asset test for parents and children;

33 (ii) Shall allow self-declaration of income and eligibility
34 information required for the application process, except where the State has reason to
35 question the information provided;

36 (iii) Shall establish renewal procedures that allow enrollees to verify
37 information by mail; and

1 (iv) Shall guarantee an enrollment period for 12 months, except in
2 cases of fraud or misrepresentation in the application.

3 SECTION 9. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Insurance**

6 15-131.

7 (A) IN THIS SECTION, "APPLICABLE POVERTY INCOME LEVEL" HAS THE
8 MEANING STATED IN § 10-709 OF THE TAX - GENERAL ARTICLE.

9 (B) IN ADDITION TO THE TAX IMPOSED UNDER TITLE 10 OF THE TAX -
10 GENERAL ARTICLE, UNLESS AN INDIVIDUAL DEMONSTRATES TO THE SATISFACTION
11 OF THE COMPTROLLER THAT THE INDIVIDUAL WAS COVERED BY HEALTH
12 INSURANCE OFFERING BENEFITS COMPARABLE TO THE COMPREHENSIVE
13 STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS ARTICLE FOR THE
14 TAXABLE YEAR:

15 (1) IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL, OR
16 OF THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME
17 TAX RETURN, IS EQUAL TO OR GREATER THAN 350% OF THE APPLICABLE POVERTY
18 INCOME LEVEL, THE INDIVIDUAL SHALL PAY AS ADDITIONAL STATE INCOME TAX
19 FOR THE TAXABLE YEAR AN AMOUNT EQUAL TO THE HOSPITAL SHARE OF
20 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN FOR THE TAXABLE YEAR, AS
21 ESTABLISHED BY THE MARYLAND HEALTH CARE COMMISSION; AND

22 (2) IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL, OR
23 OF THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME
24 TAX RETURN, IS LESS THAN 350% OF THE APPLICABLE POVERTY INCOME LEVEL AND
25 THE INDIVIDUAL IS ELIGIBLE FOR MDCARE:

26 (I) THE INDIVIDUAL SHALL BE ENROLLED IN MDCARE AND SHALL
27 PAY AS ADDITIONAL STATE INCOME TAX FOR THE TAXABLE YEAR THE APPLICABLE
28 MDCARE PREMIUM;

29 (II) THE COMPTROLLER SHALL COORDINATE WITH MDCARE AND
30 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO DETERMINE ELIGIBILITY
31 OF THE INDIVIDUAL FOR MDCARE, THE MARYLAND MEDICAL ASSISTANCE PROGRAM,
32 AND THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

33 (III) IF THE INDIVIDUAL IS ELIGIBLE FOR MDCARE, THE MARYLAND
34 MEDICAL ASSISTANCE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH
35 PROGRAM, THE INDIVIDUAL SHALL BE AUTOMATICALLY ENROLLED AND ASSESSED A
36 3-MONTH PREMIUM BY THE COMPTROLLER.

37 (C) NOTWITHSTANDING TITLE 2, SUBTITLE 6 OF THE TAX - GENERAL ARTICLE,
38 THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE FROM THE ADDITIONAL
39 STATE INCOME TAX IMPOSED UNDER THIS SECTION AS FOLLOWS:

1 (1) AMOUNTS RECEIVED UNDER SUBSECTION (B)(1) OF THIS SECTION
2 FROM INDIVIDUALS HAVING FEDERAL ADJUSTED GROSS INCOME EQUAL TO OR
3 GREATER THAN 350% OF THE APPLICABLE POVERTY INCOME LEVEL SHALL BE
4 DISTRIBUTED TO A SPECIAL FUND ADMINISTERED BY THE HEALTH SERVICES COST
5 REVIEW COMMISSION, TO BE USED ONLY TO PROVIDE REIMBURSEMENT FOR
6 UNCOMPENSATED HEALTH CARE IN THE STATE AS REQUIRED UNDER § 19-214(C) OF
7 THE HEALTH - GENERAL ARTICLE; AND

8 (2) AMOUNTS RECEIVED UNDER SUBSECTION (B)(2) OF THIS SECTION
9 FROM INDIVIDUALS HAVING FEDERAL ADJUSTED GROSS INCOME LESS THAN 350%
10 OF THE APPLICABLE POVERTY INCOME LEVEL SHALL BE DISTRIBUTED TO THE
11 GENERAL FUND OF THE STATE.

12 SECTION 10. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Health - General**

15 15-142.

16 (A) IN THIS SECTION, "FUND" MEANS THE FAIR SHARE HEALTH CARE FUND.

17 (B) THERE IS A FAIR SHARE HEALTH CARE FUND.

18 (C) THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF THE
19 PROGRAM.

20 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
21 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
23 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

24 (E) THE FUND CONSISTS OF:

25 (1) ANY REVENUE RECEIVED FROM PAYMENTS MADE BY EMPLOYERS
26 UNDER TITLE 8.5 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

27 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
28 BENEFIT OF THE FUND.

29 (F) THE FUND MAY BE USED ONLY TO SUPPORT THE OPERATIONS OF THE
30 PROGRAM.

31 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
32 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

33 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO
34 THE CREDIT OF THE FUND.

1 (H) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF
2 LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT
3 ARTICLE.

4 **Article - Labor and Employment**

5 TITLE 8.5. HEALTH CARE PAYROLL ASSESSMENT.

6 8.5-101.

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) "EMPLOYEE" MEANS ALL INDIVIDUALS EMPLOYED FULL-TIME OR
9 PART-TIME DIRECTLY BY AN EMPLOYER.

10 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
11 "EMPLOYER" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL ARTICLE.

12 (2) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT, THE
13 STATE, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF THE STATE OR ANOTHER
14 STATE.

15 (D) "HEALTH INSURANCE COSTS" MEANS THE AMOUNT PAID BY AN
16 EMPLOYER TO PROVIDE HEALTH CARE OR HEALTH INSURANCE TO EMPLOYEES IN
17 THE STATE TO THE EXTENT DEDUCTIBLE BY THE EMPLOYER UNDER FEDERAL TAX
18 LAW.

19 (E) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND
20 REGULATION.

21 (F) "WAGES" HAS THE MEANING STATED IN § 10-905 OF THE TAX - GENERAL
22 ARTICLE.

23 8.5-102.

24 THIS TITLE APPLIES TO AN EMPLOYER WITH 10,000 OR MORE EMPLOYEES IN
25 THE STATE.

26 8.5-103.

27 (A) (1) ON JANUARY 1, 2006, AND ANNUALLY THEREAFTER, AN EMPLOYER
28 SHALL SUBMIT ON A FORM AND IN A MANNER APPROVED BY THE SECRETARY:

29 (I) THE AMOUNT SPENT BY THE EMPLOYER IN THE PREVIOUS
30 CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE; AND

31 (II) THE PERCENTAGE OF PAYROLL THAT WAS SPENT BY THE
32 EMPLOYER IN THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN
33 THE STATE.

1 (2) THE SECRETARY SHALL ADOPT REGULATIONS THAT SPECIFY THE
2 INFORMATION THAT AN EMPLOYER SHALL SUBMIT UNDER PARAGRAPH (1) OF THIS
3 SUBSECTION.

4 (3) THE INFORMATION REQUIRED SHALL:

5 (I) BE DESIGNATED IN A REPORT SIGNED BY THE PRINCIPAL
6 EXECUTIVE OFFICER OR AN INDIVIDUAL PERFORMING A SIMILAR FUNCTION; AND

7 (II) INCLUDE AN AFFIDAVIT UNDER PENALTY OF PERJURY THAT
8 THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

9 1. WAS REVIEWED BY THE SIGNING OFFICER; AND

10 2. WAS BASED ON THE OFFICER'S KNOWLEDGE AND DOES
11 NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT A MATERIAL
12 FACT NECESSARY TO MAKE THE STATEMENT MADE NOT MISLEADING.

13 (B) WHEN CALCULATING THE PERCENTAGE OF PAYROLL UNDER SUBSECTION
14 (A)(1)(II) OF THIS SECTION, AN EMPLOYER MAY EXEMPT:

15 (1) WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT TAXABLE
16 FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES; AND

17 (2) WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE
18 FOR MEDICARE.

19 8.5-104.

20 (A) AN EMPLOYER THAT IS ORGANIZED AS A NONPROFIT ORGANIZATION
21 THAT DOES NOT SPEND UP TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE
22 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT
23 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH
24 INSURANCE COSTS AND AN AMOUNT EQUAL TO 6% OF THE TOTAL WAGES PAID TO
25 EMPLOYEES IN THE STATE.

26 (B) AN EMPLOYER THAT IS NOT ORGANIZED AS A NONPROFIT ORGANIZATION
27 AND DOES NOT SPEND UP TO 8% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE
28 STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT
29 EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH
30 INSURANCE COSTS AND AN AMOUNT EQUAL TO 8% OF THE TOTAL WAGES PAID TO
31 EMPLOYEES IN THE STATE.

32 (C) AN EMPLOYER MAY NOT DEDUCT ANY PAYMENT MADE UNDER
33 SUBSECTION (A) OR (B) OF THIS SECTION FROM THE WAGES OF AN EMPLOYEE.

34 (D) AN EMPLOYER SHALL MAKE THE PAYMENT REQUIRED UNDER THIS
35 SECTION TO THE SECRETARY ON A PERIODIC BASIS AS DETERMINED BY THE
36 SECRETARY.

1 8.5-105.

2 FAILURE TO REPORT IN ACCORDANCE WITH § 8.5-103 OF THIS TITLE OR TO
3 MAKE THE PAYMENT REQUIRED UNDER § 8.5-104 OF THIS TITLE SHALL RESULT IN
4 THE IMPOSITION BY THE SECRETARY OF A CIVIL PENALTY OF \$250,000.

5 8.5-106.

6 THE SECRETARY SHALL:

7 (1) ON AN ANNUAL BASIS:

8 (I) VERIFY WHICH EMPLOYERS IN THE STATE HAVE 10,000 OR
9 MORE EMPLOYEES; AND

10 (II) ENSURE THAT ALL EMPLOYERS IN THE STATE WITH 10,000 OR
11 MORE EMPLOYEES HAVE MADE THE REPORT REQUIRED UNDER § 8.5-103 OF THIS
12 TITLE;

13 (2) ADOPT REGULATIONS TO IMPLEMENT THIS TITLE; AND

14 (3) PAY THE REVENUE FROM THE PAYROLL ASSESSMENT INTO THE
15 FUND CREATED UNDER § 15-141 OF THE HEALTH - GENERAL ARTICLE.

16 **Article - Tax - General**

17 2-1603.

18 (A) IN THIS SECTION, "SPECIAL FUND" MEANS THE SPECIAL FUND
19 ESTABLISHED UNDER THIS SECTION.

20 (B) (1) A SPECIAL FUND IS ESTABLISHED TO DEDICATE CERTAIN TOBACCO
21 TAX REVENUES TO INCREASE PROVIDER REIMBURSEMENTS IN THE MARYLAND
22 MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH
23 PROGRAM AS PROVIDED IN THIS SECTION.

24 (2) THE SPECIAL FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
25 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

26 (3) THE TREASURER SHALL HOLD THE SPECIAL FUND SEPARATELY, AND
27 THE COMPTROLLER SHALL ACCOUNT FOR THE SPECIAL FUND.

28 (4) THE SPECIAL FUND CONSISTS OF THE TOBACCO TAX REVENUES
29 DISTRIBUTED TO THE FUND UNDER SUBSECTION (C) OF THIS SECTION.

30 (5) (I) THE TREASURER SHALL INVEST THE MONEY OF THE SPECIAL
31 FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

32 (II) ANY INVESTMENT EARNINGS OF THE SPECIAL FUND SHALL BE
33 CREDITED TO THE GENERAL FUND OF THE STATE.

1 (C) After making the distributions required under §§ 2-1601 and 2-1602 of
2 this subtitle, FROM THE REMAINING TOBACCO TAX REVENUE, the Comptroller shall
3 distribute:

4 (1) \$100,000,000 TO THE SPECIAL FUND; AND

5 (2) the remaining [tobacco tax revenue] BALANCE to the General Fund
6 of the State.

7 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, MONEY IN THE
8 SPECIAL FUND SHALL BE RETAINED IN THE SPECIAL FUND AND MAY NOT BE SPENT
9 FOR ANY PURPOSE.

10 (2) MONEY IN THE SPECIAL FUND MAY BE APPROPRIATED ONLY FOR
11 THE PURPOSES OF INCREASING PARTICIPATING PROVIDER REIMBURSEMENTS IN
12 THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S
13 HEALTH PROGRAM.

14 (3) MONEY FROM THIS SPECIAL FUND MAY ONLY BE USED TO AUGMENT
15 PROVIDER REIMBURSEMENTS AND MAY NOT BE USED TO SUPPLANT PROVIDER
16 MONEY ALREADY APPROPRIATED FOR THOSE PURPOSES.

17 SECTION 11. AND BE IT FURTHER ENACTED, That the Department of
18 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
19 Medicaid Services of an amendment to the State Medicaid plan that would allow the
20 State to phase in coverage expansion under the Maryland Medical Assistance
21 Program for all parents whose annual household income is at or below 200 percent of
22 the federal poverty level as follows:

23 (1) In fiscal year 2006, extend eligibility to each parent with an annual
24 household income at or below 100 percent of the federal poverty level;

25 (2) In fiscal year 2007, extend eligibility to each parent with an annual
26 household income at or below 150 percent of the federal poverty level; and

27 (3) In fiscal year 2008, extend eligibility to each parent with an annual
28 household income at or below 200 percent of the federal poverty level.

29 SECTION 12. AND BE IT FURTHER ENACTED, That the Department of
30 Health and Mental Hygiene shall submit to the Centers for Medicare and Medicaid
31 Services a request for an amendment to the State's existing § 1115 of the federal
32 Social Security Act demonstration waiver for the implementation of the expansion of
33 the Maryland Pharmacy Discount Program by this Act under § 15-124.1 of the Health
34 - General Article.

35 SECTION 13. AND BE IT FURTHER ENACTED, That the Department of
36 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
37 Medicaid Services of a waiver under § 1115 of the federal Social Security Act that
38 would allow the State to use Title XXI (S-CHIP) funds to implement the expansion of

1 MCHP under §§ 15-301 and 15-301.1 of the Health - General Article as enacted by
2 this Act.

3 SECTION 14. AND BE IT FURTHER ENACTED, That the Department of
4 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
5 Medicaid Services of a waiver under § 1115 of the federal Social Security Act that
6 would allow the State to cover newly eligible Maryland Medical Assistance Program
7 parents under § 14-501 of the Insurance Article as enacted by this Act.

8 SECTION 15. AND BE IT FURTHER ENACTED, That all cigarettes used,
9 possessed, or held in the State on or after July 1, 2005, by any person for sale or use
10 in the State, shall be subject to the full tobacco tax of \$1.50 on cigarettes imposed by
11 this Act. This requirement includes: (1) cigarettes in vending machines or other
12 mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in
13 packages that already bear stamps issued by the Comptroller under the State Tobacco
14 Tax Act but for an amount less than the full tax imposed of 68 cents for each 10
15 cigarettes or fractional part thereof; all cigarettes held for sale by any person in the
16 State on or after July 1, 2005, that bear a stamp issued by the Comptroller of a value
17 less than \$1.50 for each pack of 20 cigarettes must be stamped with the additional
18 stamps necessary to make the aggregate tax value equal to \$1.50. In lieu of the
19 additional stamps necessary to make the aggregate tax value equal to \$1.50, the
20 Comptroller may provide an alternate method of collecting the additional tax. The
21 revenue attributable to this requirement shall be remitted to the Comptroller by
22 September 30, 2005. Except as provided above, on and after July 1, 2005, no
23 Maryland stamp shall be used except the stamp issued by the Comptroller to evidence
24 the tobacco tax on cigarettes of \$1.50 imposed by this Act.

25 SECTION 16. AND BE IT FURTHER ENACTED, That:

26 (a) The Board of MdCare shall develop a state-of-the-art Internet based
27 "electronic-Care Management" (e-CM) system.

28 (b) The e-CM system's functions shall include verification of eligibility,
29 referral management, automatic claims submission and direct deposit to provider
30 accounts, and other functions related to the coordination of patient care.

31 (c) On a phased-in basis, all primary care providers with a significant
32 MdCare caseload will participate in the e-CM system.

33 (d) The Board shall use state-of-the-art approaches to data security and
34 privacy in the e-CM system.

35 SECTION 17. AND BE IT FURTHER ENACTED, That the Insurance
36 Commission shall report to the House Health and Government Operations Committee
37 and the Senate Finance Committee on or before December 31 of each year on whether
38 or not health insurance issuers are passing on anticipated savings from the reduction
39 in uncompensated care to policyholders, and what steps have been taken to ensure
40 that insurers are passing on those reduced costs to policyholders.

1 SECTION 18. AND BE IT FURTHER ENACTED, That, subject to the
2 approval of the Executive Director of the Department of Legislative Services, the
3 publishers of the Annotated Code of Maryland shall propose the correction of
4 cross-references that are rendered incorrect by this Act.

5 SECTION 19. AND BE IT FURTHER ENACTED, That Section 1 of this Act
6 shall take effect on the date that the Centers for Medicare and Medicaid Services
7 approves a plan amendment applied for in accordance with Section 11 of this Act. The
8 Department of Health and Mental Hygiene shall, within 5 working days of the date of
9 the approval of the State's waiver amendment application, notify the Department of
10 Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401.

11 SECTION 20. AND BE IT FURTHER ENACTED, That Section 2 of this Act
12 shall take effect on the date that the Centers for Medicare and Medicaid Services
13 approves a waiver amendment applied for in accordance with Section 12 of this Act.
14 The Department of Health and Mental Hygiene shall, within 5 working days of the
15 date of the approval of the State's waiver amendment application, notify the
16 Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland
17 21401. If the waiver amendment is denied, Section 2 of this Act shall be null and void
18 without the necessity of further action by the General Assembly.

19 SECTION 21. AND BE IT FURTHER ENACTED, That Section 3 of this Act
20 shall take effect on the date that the Centers for Medicare and Medicaid Services
21 approves a waiver amendment applied for in accordance with Section 13 of this Act.
22 The Department of Health and Mental Hygiene shall, within 5 working days of the
23 date of the approval of the State's waiver amendment application, notify the
24 Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland
25 21401. If the waiver amendment is denied, Section 3 of this Act shall be null and void
26 without the necessity of further action by the General Assembly.

27 SECTION 22. AND BE IT FURTHER ENACTED, That newly eligible
28 Maryland Medical Assistance Program parents shall be enrolled in MdCare under §
29 14-501 of the Insurance Article as enacted by this Act. The Department of Health and
30 Mental Hygiene shall, within 5 working days of the date of the approval of the State's
31 waiver amendment application, notify the Department of Legislative Services in
32 writing at 90 State Circle, Annapolis, Maryland 21401. If the waiver is denied, and
33 subject to Section 19 as enacted by this Act, all eligible parents shall be enrolled in the
34 Maryland Medical Assistance Program.

35 SECTION 23. AND BE IT FURTHER ENACTED, That Sections 5, 7, and 16 of
36 this Act shall take effect July 1, 2006.

37 SECTION 24. AND BE IT FURTHER ENACTED, That, subject to Section 19
38 of this Act, Section 6 of this Act shall take effect July 1, 2006.

39 SECTION 25. AND BE IT FURTHER ENACTED, That Section 9 of this Act
40 shall take effect July 1, 2007.

41 SECTION 26. AND BE IT FURTHER ENACTED, That, subject to Section 19
42 of this Act, Section 8 of this Act shall take effect July 1, 2007.

1 SECTION 27. AND BE IT FURTHER ENACTED, That, except as provided in
2 Sections 19, 20, 21, 22, 23, 24, 25, and 26 of this Act, this Act shall take effect July 1,
3 2005.