

# SENATE BILL 274

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CF HB 228

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By: **The President (By Request – Administration) and Senators Currie, Ferguson, Forehand, Frosh, Jones–Rodwell, Kelley, King, Klausmeier, Madaleno, Middleton, Montgomery, Peters, Pinsky, Pugh, Ramirez, Raskin, Robey, Rosapepe, Stone, and ~~Young~~ Young, Astle, Garagiola, and Mathias**

Introduced and read first time: January 18, 2013

Assigned to: Finance and Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 22, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Health Progress Act of 2013**

3 FOR the purpose of altering certain eligibility requirements for the Maryland Medical  
4 Assistance Program and a certain definition to conform to federal eligibility  
5 requirements; requiring the Department of Health and Mental Hygiene to  
6 implement certain provisions of federal law, subject to the limitations of the  
7 State budget; repealing an obsolete provision of law that requires the Governor  
8 to include certain funding in the State budget; authorizing the Secretary of  
9 Health and Mental Hygiene to provide certain grants for a certain purpose;  
10 expanding the purposes for which funds generated from a certain assessment  
11 may be used to include providing funding for a certain reinsurance program;  
12 ~~establishing the Performance Standards and Measurement Advisory Committee~~  
13 ~~in the Department; providing for the purposes, membership, chair, and duties of~~  
14 ~~the Committee; exempting from the insurance premium tax a qualified~~  
15 ~~nonprofit health insurance issuer that meets certain requirements; requiring a~~  
16 ~~portion of a certain tax to be distributed, beginning on a certain date, annually~~  
17 ~~to the Maryland Health Benefit Exchange Fund for a certain purpose;~~  
18 exempting the Maryland Health Benefit Exchange (Exchange) and its  
19 employees from certain provisions of law governing third party administrators;  
20 expanding the purposes for which the Maryland Health Insurance Plan Fund  
21 may be used to include funding a certain reinsurance program; requiring

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 enrollment in the Maryland Health Insurance Plan (Plan) to be closed to certain  
2 individuals not enrolled in the Plan as of a certain date; prohibiting certain  
3 individuals from reenrolling in the Plan under certain circumstances; requiring  
4 the Board of the Plan, in consultation with the Exchange, to determine the  
5 appropriate date on which the Plan must decline reenrolling Plan members;  
6 requiring the Board of the Plan to provide certain notice to Plan members  
7 beginning on a certain date; requiring the Plan Administrator to deposit certain  
8 money in a certain separate account and to keep certain records; authorizing  
9 the transfer, under certain circumstances, of certain money in the separate  
10 account to the Maryland Health Benefit Exchange Fund for the purpose of  
11 funding a certain reinsurance program; requiring the Board of the Plan and the  
12 Board of Trustees of the Exchange to develop and approve a plan for the amount  
13 and timing of the use of certain funds for a certain reinsurance program;  
14 requiring the Board of the Plan and the Board of Trustees of the Exchange to  
15 report on certain matters at certain times; establishing the purpose and effect of  
16 certain provisions of this Act; exempting certain carriers that offer certain plans  
17 from a certain requirement under certain circumstances; requiring certain  
18 carriers and managed care organizations to accept a ~~prior authorization~~  
19 preauthorization from certain carriers and managed care organizations under  
20 certain circumstances; requiring certain carriers and managed care  
21 organizations to allow a new enrollee to continue to receive certain health care  
22 services being rendered by a certain provider under certain circumstances;  
23 providing for the application of certain requirements relating to  
24 preauthorizations and continuity of health care services; exempting enrollees  
25 transitioning from a carrier to the Maryland Medical Assistance fee-for-service  
26 program from the preauthorization and continuity of health care services  
27 requirements; requiring certain providers and certain carriers or managed care  
28 organizations to agree on the compensation rates and methods of payment with  
29 respect to the provision of certain services; specifying certain requirements for  
30 the agreement; providing that if an agreement is not reached, the provider is  
31 not required to continue to provide the services and the carrier or managed care  
32 organization ~~is not required to allow the services to be provided by the provider~~  
33 must facilitate transition of the enrollee to a provider on the provider panel of  
34 the carrier or managed care organization; authorizing a relinquishing carrier to  
35 elect to allow an enrollee to continue to receive dental services provided by a  
36 participating provider of the relinquishing carrier through a certain  
37 arrangement; providing that the requirements of certain provisions of this Act  
38 are in addition to any other legal, professional, or ethical obligations of a carrier  
39 or managed care organization to provide continuity of care; authorizing the  
40 Maryland Insurance Commissioner and the Secretary of Health and Mental  
41 Hygiene to each adopt regulations to enforce certain provisions of this Act;  
42 requiring the Commissioner, the Secretary, and the Exchange to determine the  
43 data necessary to make a certain assessment and develop a certain process ~~and~~  
44 ~~to request the data from certain persons~~; requiring certain persons to provide  
45 the data on request; establishing that it is a fraudulent insurance act for a  
46 person to act or represent that the person is a SHOP Exchange navigator or, an  
47 Individual Exchange navigator, or certain application counselor to take certain

1 ~~actions or make certain representations~~ under certain circumstances;  
2 exempting the Exchange from certain insurance laws; ~~requiring a carrier, under~~  
3 ~~certain circumstances, to retain responsibility for ensuring that certain~~  
4 ~~consumer protections are afforded to certain employers and enrollees~~ providing  
5 that a carrier is not liable or subject to certain regulatory sanction under certain  
6 circumstances; requiring the Commissioner to regulate the Exchange in taking  
7 certain actions; prohibiting the Commissioner from imposing a fine or  
8 administrative penalty on the Exchange for failing to take certain actions;  
9 authorizing the Commissioner to require the Exchange to make certain  
10 restitution to certain consumers under certain circumstances; requiring the  
11 Exchange and certain carriers to hold a consumer harmless from certain  
12 consequences caused by a certain action of the Exchange; prohibiting the  
13 Commissioner from participating in certain matters as a member of the Board  
14 of Trustees of the Exchange under certain circumstances; requiring the Board of  
15 Trustees of the Exchange to establish a certain committee; expanding the  
16 purposes of the Maryland Health Benefit Exchange Fund to include providing  
17 funding for the establishment and operation of a certain reinsurance program;  
18 altering the contents of the Fund; requiring the Board of Trustees of the  
19 Exchange to maintain certain accounts within the Fund; requiring certain funds  
20 to be placed in a certain account for a certain purpose; establishing certain  
21 restrictions on certain expenditures from the Fund; requiring certain funds in a  
22 certain account to revert to the General Fund of the State under certain  
23 circumstances; requiring certain operating expenses to be charged to a certain  
24 fund source under certain circumstances; requiring the Board of Trustees to  
25 establish a trust account for a certain purpose; requiring the Board of Trustees  
26 to maintain separate records of account for certain carriers; requiring the  
27 Governor, for certain fiscal years, to provide an appropriation in the State  
28 budget from certain funds received from a certain premium tax adequate to  
29 fully fund the operations of the Exchange; requiring ~~the appropriation to be~~  
30 ~~allocated from a certain premium tax~~ a certain minimum appropriation for  
31 certain fiscal years; authorizing a certain deficiency appropriation; requiring  
32 certain funds to revert to the General Fund of the State; requiring the Exchange  
33 to comply with certain federal law in carrying out certain functions; providing  
34 that a certain employer is not required to contribute to the qualified plan  
35 premiums of its employees; requiring a certain employer to take certain actions  
36 if the employer chooses to contribute to the qualified premiums of its employees;  
37 authorizing the Exchange to establish a Consolidated Services Center (Center)  
38 under certain circumstances; applying certain provisions of law that require  
39 certain training for SHOP Exchange navigators to certain employees of the  
40 Center; authorizing an Individual Exchange navigator to be employed by the  
41 Exchange; requiring the Exchange to establish and administer a process for the  
42 issuance of Consolidated Services Center employee Individual Exchange  
43 enrollment permits; authorizing the Exchange to implement a certain process  
44 with certain assistance; applying certain provisions of law that require certain  
45 training for Individual Exchange navigators to certain employees of the Center;  
46 clarifying the circumstances of individuals whom the Individual Exchange shall  
47 assist in making a certain transition; requiring the training program for

1 insurance producers who sell qualified plans in the Individual Exchange to  
2 impart certain skills and expertise; authorizing, until a certain date, a captive  
3 producer without a certain certification to enroll certain individuals in a  
4 qualified plan offered in the Individual Exchange by a certain carrier; requiring  
5 a captive producer to refer certain individuals to an insurance producer under  
6 certain circumstances, with certain exceptions; requiring a captive producer to  
7 make a certain disclosure; establishing requirements a carrier and its captive  
8 producers must meet in offering information and assistance to the carrier's  
9 current enrollees; prohibiting a captive producer from providing information or  
10 services related to health benefit plans or other products not offered by the  
11 captive producer's carrier; requiring a captive producer to make certain  
12 referrals under certain circumstances; authorizing the Exchange to designate  
13 certain entities as application counselor sponsoring entities and to certify  
14 certain individuals as application counselors; establishing requirements for  
15 application counselor sponsoring entities and application counselors to provide  
16 certain services; providing that an application counselor is subject to certain  
17 requirements; authorizing the Exchange, in consultation with the  
18 Commissioner and the Department, to establish requirements for an application  
19 counselor sponsoring entity and to adopt regulations relating to application  
20 counselor sponsoring entities and application counselors; authorizing the Center  
21 to employ certain individuals; specifying the qualifications that must be met for  
22 issuance of a SHOP Exchange enrollment permit and an Individual Exchange  
23 enrollment permit; requiring the Exchange, the Center, and Center employees  
24 to assist the Health Education and Advocacy Unit of the Office of the Attorney  
25 General in carrying out certain duties; altering the requirements that must be  
26 met for a health benefit plan to be certified as a qualified health plan; altering  
27 requirements for qualified health plans relating to vision benefits; authorizing  
28 the Exchange to require children enrolling in a qualified health plan to have  
29 certain dental benefits; authorizing the Exchange to deny certification to certain  
30 plans or suspend or revoke certification of certain plans under certain  
31 circumstances; authorizing the Exchange, in addition to denying, suspending, or  
32 revoking certification, to impose certain other remedies or take other actions;  
33 requiring the Exchange to consider certain factors in determining the amount of  
34 a certain penalty; establishing a process through which a carrier or plan may  
35 appeal a certain order or decision; authorizing the Exchange, in consultation  
36 with the Maryland Health Care Commission and with the approval of the  
37 Commissioner, to establish a certain reinsurance program to take effect on or  
38 after a certain date; establishing the purpose of the program; authorizing the  
39 Exchange, with the approval of and in collaboration with the Board of the Plan,  
40 to use certain revenue to fund the program; specifying the types of  
41 discrimination the Exchange shall be designed to prevent; altering the  
42 requirements for an annual report on the activities, expenditures, and receipts  
43 of the Exchange; altering the circumstances under which the Board of Trustees  
44 of the Exchange must cooperate with certain investigations; declaring the intent  
45 of the General Assembly; requiring the Exchange, the Department of Health  
46 and Mental Hygiene, ~~and~~ the Maryland Insurance Administration, and the  
47 Maryland Health Care Commission to conduct a certain study and report to the

1 Governor and the General Assembly on the findings of the study and certain  
 2 recommendations on or before a certain date; requiring the Exchange and the  
 3 Administration to conduct a study of the impact of the Affordable Care Act's  
 4 allowance of a certain tobacco use rating and to report to the Governor and the  
 5 General Assembly on the findings of the study and certain recommendations on  
 6 or before a certain date; authorizing the Board of Trustees of the Exchange to  
 7 adopt certain interim policies, for certain purposes after receiving certain  
 8 comment; requiring the interim policies to be submitted as proposed regulations  
 9 within a certain period after adoption and to sunset within a certain time after  
 10 submission as proposed regulations; requiring the Exchange and the  
 11 Administration to conduct a study of the impact of federal regulations governing  
 12 the offering and purchase of pediatric dental benefits and to report to the  
 13 Governor and General Assembly on their findings and recommendations on or  
 14 before a certain date; requiring the Exchange and the Administration to conduct  
 15 a study of a certain captive producer program and to report to the Governor and  
 16 General Assembly on their findings and recommendations on or before a certain  
 17 date; defining certain terms; altering certain definitions; making certain  
 18 conforming changes; ~~providing for the initial terms of the members of the~~  
 19 ~~Performance Standards and Measurement Advisory Committee;~~ providing for  
 20 the termination of certain provisions of this Act; providing for the effective dates  
 21 of this Act; and generally relating to health insurance regulation and the  
 22 Maryland Health Benefit Exchange.

23 BY repealing and reenacting, without amendments,  
 24 Article – Health – General  
 25 Section 15–101(a) and 19–214(a) through (c)  
 26 Annotated Code of Maryland  
 27 (2009 Replacement Volume and 2012 Supplement)

28 BY repealing and reenacting, with amendments,  
 29 Article – Health – General  
 30 Section 15–101(d–1), 15–103(a), 19–143(a), and 19–214(d)  
 31 Annotated Code of Maryland  
 32 (2009 Replacement Volume and 2012 Supplement)

33 BY adding to  
 34 ~~Article – Health – General~~  
 35 ~~Section 20–1501 to be under the new subtitle “Subtitle 15. Performance~~  
 36 ~~Standards and Measurement Advisory Committee”~~  
 37 ~~Annotated Code of Maryland~~  
 38 ~~(2009 Replacement Volume and 2012 Supplement)~~

39 ~~BY repealing and reenacting, without amendments,~~  
 40 ~~Article – Insurance~~  
 41 ~~Section 8–301(a) and 31–101(a)~~  
 42 ~~Annotated Code of Maryland~~  
 43 ~~(2011 Replacement Volume and 2012 Supplement)~~

1 BY repealing and reenacting, with amendments,  
 2 Article – Insurance  
 3 Section 6–101(b), 8–301(b), 14–502, 14–504, ~~15–1303(b)~~, 27–405(a), 31–101(i),  
 4 (k), and (l), 31–103, 31–106(g), 31–107, 31–108(c), (d), and (e), 31–111,  
 5 31–112(h), ~~31–113(h)~~, ~~(i)~~, and ~~(k)(1) and (2)~~ 31–113(a)(5), (b), (e), (f), (g),  
 6 (h), (i), (k)(1) and (2), (l)(4), (m), (o), and (p), 31–114(a), 31–115(b), (d), (h),  
 7 and (i)(3), 31–116(a), 31–117, and ~~31–119(e)~~ 31–119(a), (d), and (e)  
 8 Annotated Code of Maryland  
 9 (2011 Replacement Volume and 2012 Supplement)

10 BY adding to  
 11 Article – Insurance  
 12 Section 6–103.2, 15–140, ~~31–101(e–1)~~ 31–101(a–1), (a–2), (c–1), and (c–2),  
 13 31–107.1, 31–107.2, 31–108(c), 31–113(p) and (r), 31–113.1, and  
 14 31–115(k)  
 15 Annotated Code of Maryland  
 16 (2011 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, without amendments,  
 18 Article – Insurance  
 19 Section 8–301(a), 31–101(a), 31–113(a)(1), and 31–115(e)  
 20 Annotated Code of Maryland  
 21 (2011 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, with amendments,  
 23 Article – Insurance  
 24 Section 15–1303(b)(2)  
 25 Annotated Code of Maryland  
 26 (2011 Replacement Volume and 2012 Supplement)  
 27 (As enacted by Chapter 152 of the Acts of the General Assembly of 2012)

28 Preamble

29 WHEREAS, The federal Patient Protection and Affordable Care Act (Affordable  
 30 Care Act), as amended by the federal Health Care and Education Reconciliation Act of  
 31 2010, gives states tools to expand access, enhance quality, and address the costs of  
 32 health care for individuals, families, and small employers; and

33 WHEREAS, To this end, the Affordable Care Act requires, by January 1, 2014,  
 34 the establishment of a health benefit exchange in each state that makes available  
 35 qualified health plans to qualified individuals and employers, and meets certain other  
 36 requirements; and

37 WHEREAS, Maryland’s Health Benefit Exchange, if successful, will make  
 38 health care coverage accessible to hundreds of thousands of Marylanders who

1 otherwise would not be able to obtain the insurance necessary for financial security,  
2 health, and well-being; and

3 WHEREAS, To ensure that each state's lowest-income individuals and families  
4 also have access to care, the Affordable Care Act affords states the opportunity to  
5 expand eligibility for their Medicaid programs beginning January 1, 2014; and

6 WHEREAS, Maryland's expansion of Medicaid will enable the State to cover for  
7 the first time hundreds of thousands of Maryland citizens with incomes below 138% of  
8 federal poverty guidelines who have never before had coverage; and

9 WHEREAS, The federal government will fund this expansion of Medicaid  
10 eligibility in full for the first 3 years, and in 2017 will require the State gradually to  
11 contribute up to 10% by 2020; and

12 WHEREAS, In addition to those who will secure access to health coverage for  
13 the first time, Maryland's Health Benefit Exchange and Medicaid expansion will  
14 benefit all Marylanders, as broader coverage results in decreased uncompensated care,  
15 improved population health, increased premium and hospital revenues, and reduced  
16 health care costs; and

17 WHEREAS, The Maryland Health Benefit Exchange Act of 2011, enacted by  
18 Chapter 2 of the Acts of 2011, established the governance and structure of the  
19 Maryland Health Benefit Exchange (Exchange); and

20 WHEREAS, The Maryland Health Benefit Exchange Act of 2012, enacted by  
21 Chapter 152 of the Acts of 2012, put in place many of the Exchange Board's initial  
22 policy recommendations, developed with the input of its advisory groups and in  
23 accordance with its guiding principles, necessary to establish and operate a successful  
24 Exchange; and

25 WHEREAS, These guiding principles – accessibility, affordability,  
26 sustainability, stability, health equity, flexibility, and transparency – reflect the  
27 State's goals for establishing a successful Exchange and ensuring that the Exchange's  
28 policies, functions and operations (1) make health care coverage more accessible to  
29 more Marylanders; (2) promote affordable coverage; (3) contribute to the Exchange's  
30 long-term sustainability; (4) build on the strengths of the State's existing health care,  
31 health insurance, and health insurance distribution systems to support the Exchange's  
32 stability; (5) address longstanding disparities in health care access and outcomes; (6)  
33 facilitate flexibility for the Exchange to respond to changes in the insurance market,  
34 health care delivery system, and economic conditions while also maintaining  
35 sensitivity and responsiveness to consumer needs; and (7) function with the  
36 transparency necessary to render it accountable, accessible, and easily understood by  
37 the public; and

38 WHEREAS, In accordance with these principles, the State seeks to put in place  
39 some remaining policies, including a dedicated revenue stream to ensure the

1 Exchange's long-term financial sustainability, which are necessary to comply with  
 2 federal requirements for certification and to complete development of the Exchange by  
 3 January 1, 2014; and

4 WHEREAS, The State also seeks a stable, minimally disruptive transition of its  
 5 high-risk population currently covered by the Maryland Health Insurance Plan into  
 6 the Exchange; and

7 WHEREAS, The State also seeks the flexibility to establish a State reinsurance  
 8 program to enhance the affordability of health insurance by mitigating the rate impact  
 9 of high-risk enrollees in the individual insurance market inside and outside the  
 10 Exchange; and

11 WHEREAS, The State seeks to take full advantage of the opportunity to expand  
 12 Medicaid coverage for its most financially vulnerable individuals and families; and

13 WHEREAS, Recognizing also that many Marylanders will transition among  
 14 qualified health plans inside and outside the Exchange, and between the Exchange  
 15 and Medicaid, and in accordance with the recommendations of the study mandated by  
 16 the Maryland Health Benefit Exchange Act of 2012, the State seeks to advance its  
 17 progress in preventing harmful disruptions of care; and

18 WHEREAS, The State seeks to enact at this time those Exchange policies,  
 19 changes in Medicaid eligibility, and continuity of care recommendations that are  
 20 necessary to ensure that the full benefits of the Affordable Care Act are available to all  
 21 Marylanders; now, therefore,

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

24 **Article – Health – General**

25 15–101.

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

27 (d–1) “~~Independent~~ **FORMER** foster care adolescent” means an individual:

28 (1) Who is under **[21] 26** years of age; and

29 (2) Who, on the individual's 18th birthday, was in foster care under  
 30 the responsibility of the State, **ANY OTHER STATE, OR THE DISTRICT OF**  
 31 **COLUMBIA.**

32 15–103.



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

3                   (2)   The Program:

4                           (i)   Subject to the limitations of the State budget, shall provide  
5 medical and other health care services for indigent individuals or medically indigent  
6 individuals or both;

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

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

15                           (iv)   Beginning on January 1, 2012, shall provide, subject to the  
16 limitations of the State budget, family planning services to all women whose family  
17 income is at or below 200 percent of the poverty level, as permitted by federal law;

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

22                           (vi)   [Shall] **BEGINNING ON JANUARY 1, 2014, SHALL** provide,  
23 subject to the limitations of the State budget, comprehensive medical care and other  
24 health care services for all children who are at least 6 years of age but are under 19  
25 years of age whose family income falls below [100] **133** percent of the poverty level, as  
26 permitted by federal law;

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

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

1                    [(ix) Beginning on July 1, 2008, shall provide, subject to the  
2 limitations of the State budget, and as permitted by federal law, comprehensive  
3 medical care and other health care services for all parents and caretaker relatives:

4                    1.     Who have a dependent child living in the parents' or  
5 caretaker relatives' home; and

6                    2.     Whose annual household income is at or below 116  
7 percent of the poverty level;

8                    (x) (IX)     Beginning on [July 1, 2008] **JANUARY 1, 2014**, shall  
9 provide, subject to the limitations of the State budget, and as permitted by federal law,  
10 medical care and other health care services for adults[:

11                    1.     Who do not meet requirements, such as age,  
12 disability, or parent or caretaker relative of a dependent child, for a federal category of  
13 eligibility for Medicaid;

14                    2.     Whose] **WHOSE** annual household income is at or  
15 below [116] **133** percent of the poverty level; [and

16                    3.     Who are not enrolled in the federal Medicare  
17 program, as enacted by Title XVIII of the Social Security Act;]

18                    [(xi) (X)     ~~Shall provide, subject~~ **SUBJECT** to the limitations of  
19 the State budget, and as permitted by federal law; :

20                    **1.     SHALL PROVIDE** comprehensive medical care and  
21 other health care services for ~~independent~~ **FORMER** foster care adolescents;

22                    ~~±~~     ~~Who~~ **WHO, ON THEIR 18TH BIRTHDAY, WERE IN**  
23 **FOSTER CARE UNDER THE RESPONSIBILITY OF THE STATE AND** are not otherwise  
24 eligible for Program benefits; and

25                    2.     ~~Whose annual household income is at or below 300~~  
26 ~~percent of the poverty level~~ **MAY PROVIDE COMPREHENSIVE MEDICAL CARE AND**  
27 **OTHER HEALTH CARE SERVICES FOR FORMER FOSTER CARE ADOLESCENTS**  
28 **WHO, ON THEIR 18TH BIRTHDAY, WERE IN FOSTER CARE UNDER THE**  
29 **RESPONSIBILITY OF ANY OTHER STATE OR THE DISTRICT OF COLUMBIA;**

30                    [(xii) (XI)     May include bedside nursing care for eligible Program  
31 recipients; and

32                    [(xiii) (XII) Shall provide services in accordance with funding  
33 restrictions included in the annual State budget bill.

1                   (3) Subject to restrictions in federal law or waivers, the Department  
2 may:

3                   (i) Impose cost-sharing on Program recipients; and

4                   (ii) For adults who do not meet requirements for a federal  
5 category of eligibility for Medicaid:

6                   1. Cap enrollment; and

7                   2. Limit the benefit package[, except that substance  
8 abuse services shall be provided that are at least equivalent to the substance abuse  
9 services provided to adults under paragraph (2)(ix) of this subsection].

10                   [(4) In fiscal year 2011 and each fiscal year thereafter, the Governor  
11 shall include in the State budget funding sufficient to provide the substance abuse  
12 benefits required under paragraph (3)(ii)2 of this subsection.]

13                   **(4) SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE**  
14 **DEPARTMENT SHALL IMPLEMENT THE PROVISIONS OF TITLE II OF THE**  
15 **FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY**  
16 **THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010,**  
17 **TO INCLUDE:**

18                   **(i) PARENTS AND CARETAKER RELATIVES WHO HAVE A**  
19 **DEPENDENT CHILD LIVING IN THE PARENTS' OR CARETAKER RELATIVES' HOME;**  
20 **AND**

21                   **(ii) ADULTS WHO DO NOT MEET REQUIREMENTS, SUCH AS**  
22 **AGE, DISABILITY, OR PARENT OR CARETAKER RELATIVE OF A DEPENDENT**  
23 **CHILD, FOR A FEDERAL CATEGORY OF ELIGIBILITY FOR MEDICAID AND WHO**  
24 **ARE NOT ENROLLED IN THE FEDERAL MEDICARE PROGRAM, AS ENACTED BY**  
25 **TITLE XVII OF THE SOCIAL SECURITY ACT.**

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

28                   **Article – Health – General**

29                   19–143.

30                   (a) **(1)** On or before October 1, 2009, the Commission and the Health  
31 Services Cost Review Commission shall designate a health information exchange for  
32 the State.

1           **(2) THE SECRETARY, TO ALIGN FUNDING OPPORTUNITIES WITH**  
2 **THE PURPOSES OF THIS SECTION AND THE DEVELOPMENT AND EFFECTIVE**  
3 **OPERATION OF THE STATE'S HEALTH INFORMATION EXCHANGE, MAY PROVIDE**  
4 **GRANTS TO THE HEALTH INFORMATION EXCHANGE DESIGNATED UNDER**  
5 **PARAGRAPH (1) OF THIS SUBSECTION.**

6 19–214.

7           (a) The Commission shall assess the underlying causes of hospital  
8 uncompensated care and make recommendations to the General Assembly on the most  
9 appropriate alternatives to:

10                   (1) Reduce uncompensated care; and

11                   (2) Assure the integrity of the payment system.

12           (b) The Commission may adopt regulations establishing alternative methods  
13 for financing the reasonable total costs of hospital uncompensated care and the  
14 disproportionate share hospital payment provided that the alternative methods:

15                   (1) Are in the public interest;

16                   (2) Will equitably distribute the reasonable costs of uncompensated  
17 care and the disproportionate share hospital payment;

18                   (3) Will fairly determine the cost of reasonable uncompensated care  
19 and the disproportionate share hospital payment included in hospital rates;

20                   (4) Will continue incentives for hospitals to adopt fair, efficient, and  
21 effective credit and collection policies; and

22                   (5) Will not result in significantly increasing costs to Medicare or the  
23 loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

24           (c) Any funds generated through hospital rates under an alternative method  
25 adopted by the Commission in accordance with subsection (b) of this section may only  
26 be used to finance the delivery of hospital uncompensated care and the  
27 disproportionate share hospital payment.

28           (d) (1) Each year, the Commission shall assess a uniform, broad-based,  
29 and reasonable amount in hospital rates to:

30                   (i) Reflect the aggregate reduction in hospital uncompensated  
31 care realized from the expansion of health care coverage under Chapter 7 of the Acts of  
32 the 2007 Special Session of the General Assembly; and

1 (ii) Operate and administer the Maryland Health Insurance  
2 Plan established under Title 14, Subtitle 5 of the Insurance Article.

3 (2) (i) For the portion of the assessment under paragraph (1)(i) of  
4 this subsection:

5 1. The Commission shall ensure that the assessment  
6 amount equals 1.25% of projected regulated net patient revenue; and

7 2. Each hospital shall remit its assessment amount to  
8 the Health Care Coverage Fund established under § 15–701 of this article.

9 (ii) Any savings realized in averted uncompensated care as a  
10 result of the expansion of health care coverage under Chapter 7 of the Acts of the 2007  
11 Special Session of the General Assembly that are not subject to the assessment under  
12 paragraph (1)(i) of this subsection shall be shared among purchasers of hospital  
13 services in a manner that the Commission determines is most equitable.

14 (3) For the portion of the assessment under paragraph (1)(ii) of this  
15 subsection:

16 (i) The Commission shall ensure that the assessment:

17 1. Shall be included in the reasonable costs of each  
18 hospital when establishing the hospital's rates;

19 2. May not be considered in determining the  
20 reasonableness of rates or hospital financial performance under Commission  
21 methodologies; and

22 3. May not be less as a percentage of net patient revenue  
23 than the assessment of 0.8128% that was in existence on July 1, 2007; and

24 (ii) Each hospital shall remit monthly one-twelfth of the  
25 amount assessed under paragraph (1)(ii) of this subsection to the Maryland Health  
26 Insurance Plan Fund established under Title 14, Subtitle 5 of the Insurance Article,  
27 for the purpose of operating and administering the Maryland Health Insurance Plan.

28 (4) The assessment authorized under paragraph (1) of this subsection  
29 may not exceed 3% in the aggregate of any hospital's total net regulated patient  
30 revenue.

31 (5) (I) Funds generated from the assessment under this subsection  
32 may be used only as follows:

33 [(i)] 1. To supplement coverage under the Medical Assistance  
34 Program beyond the eligibility requirements in existence on January 1, 2008; AND



- 1                    ~~1. THE DEPARTMENT;~~
- 2                    ~~2. THE MARYLAND INSURANCE ADMINISTRATION;~~
- 3                    ~~3. THE MARYLAND HEALTH BENEFIT EXCHANGE;~~
- 4                    ~~4. THE MARYLAND HEALTH CARE COMMISSION;~~
- 5                    ~~5. THE MARYLAND HEALTH QUALITY AND COST~~  
6 ~~COUNCIL; AND~~
- 7                    ~~6. THE HEALTH SERVICES COST REVIEW~~  
8 ~~COMMISSION;~~

9                    ~~(III) THREE EXPERTS IN THE FIELD OF PERFORMANCE~~  
10 ~~MEASUREMENT WHO ARE AFFILIATED WITH AN INSTITUTION OF HIGHER~~  
11 ~~EDUCATION IN THE STATE OR WHO CONDUCT OR ASSESS RESEARCH ON HOW~~  
12 ~~HEALTH CARE DELIVERY SYSTEMS SHOULD BE STRUCTURED TO IMPROVE~~  
13 ~~HEALTH OUTCOMES;~~

14                    ~~(IV) ONE REPRESENTATIVE OF A CONSUMER HEALTH CARE~~  
15 ~~ADVOCACY ORGANIZATION; AND~~

16                    ~~(V) TWO CONSUMER MEMBERS.~~

17                    ~~(D) (1) THE TERM OF A MEMBER OF THE COMMITTEE IS 3 YEARS.~~

18                    ~~(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED~~  
19 ~~BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JUNE 1, 2013.~~

20                    ~~(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE~~  
21 ~~UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

22                    ~~(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN~~  
23 ~~SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS~~  
24 ~~APPOINTED AND QUALIFIES.~~

25                    ~~(5) A MEMBER MAY NOT SERVE MORE THAN TWO 3-YEAR TERMS.~~

26                    ~~(E) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE~~  
27 ~~MEMBERS OF THE COMMITTEE WHO REPRESENT STATE GOVERNMENT.~~

28                    ~~(F) THE COMMITTEE SHALL:~~

~~(1) ESTABLISH AND OVERSEE A TRANSPARENT PROCESS FOR THE SELECTION OF PERFORMANCE MEASURES FOR EVALUATING HEALTH INSURANCE PLANS OFFERED IN THE PRIVATE HEALTH INSURANCE MARKET IN THE STATE;~~

~~(2) ENSURE THAT THE PROCESS PROVIDES OPPORTUNITIES FOR PUBLIC COMMENT AND A MECHANISM FOR RESPONDING TO PUBLIC COMMENT;~~

~~(3) RECOMMEND PERFORMANCE MEASURES THAT:~~

~~(i) ARE EVIDENCE-BASED, CONSISTENT WITH NATIONALLY RECOGNIZED PRACTICE GUIDELINES, RELIABLE, VALID, APPLICABLE TO AVAILABLE DATABASES, AND APPROPRIATE FOR MARYLAND CONSUMERS OF HEALTH CARE; AND~~

~~(ii) INCLUDE MEASURES OF PUBLIC HEALTH OUTCOMES;~~

~~(4) ADVISE THE DEPARTMENT, THE MARYLAND HEALTH BENEFIT EXCHANGE, THE MARYLAND HEALTH CARE COMMISSION, THE HEALTH SERVICES COST REVIEW COMMISSION, AND PRIVATE INSURERS ON USE OF THE PERFORMANCE MEASURES;~~

~~(5) SUPPORT THE ALIGNMENT OF PERFORMANCE MEASURES ACROSS HEALTH CARE PROGRAMS IN THE STATE; AND~~

~~(6) PROVIDE INPUT TO THE DEPARTMENT ON THE MOST EFFECTIVE METHOD OF INTEGRATING THE PERFORMANCE MEASURES DEVELOPED BY THE COMMITTEE INTO THE STATESTAT PROCESS.~~

~~(c) (1) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMITTEE SHALL REPORT TO THE GENERAL ASSEMBLY ON ITS ACTIVITIES DURING THE PREVIOUS CALENDAR YEAR TO SUPPORT HEALTH CARE PERFORMANCE AND OUTCOME MEASURES.~~

~~(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN ASSESSMENT OF IMPROVEMENTS MADE IN HEALTH OUTCOMES AND CONSUMER SATISFACTION.~~

## Article – Insurance

~~6–101.~~

(b) The following persons are not subject to taxation under this subtitle:



1           (1) a nonprofit health service plan corporation that meets the  
2 requirements established under §§ 14–106 and 14–107 of this article;

3           (2) a fraternal benefit society;

4           (3) a surplus lines broker, who is subject to taxation in accordance  
5 with Title 3, Subtitle 3 of this article;

6           (4) an unauthorized insurer, who is subject to taxation in accordance  
7 with Title 4, Subtitle 2 of this article;

8           (5) the Maryland Health Insurance Plan established under Title 14,  
9 Subtitle 5, Part I of this article;

10           (6) the Senior Prescription Drug Assistance Program established  
11 under Title 14, Subtitle 5, Part II of this article; [or]

12           (7) a nonprofit health maintenance organization authorized by Title  
13 19, Subtitle 7 of the Health – General Article that is exempt from taxation under §  
14 501(c)(3) of the Internal Revenue Code; AND

15           (8) A QUALIFIED NONPROFIT HEALTH INSURANCE ISSUER THAT  
16 IS ESTABLISHED UNDER § 1322 OF THE AFFORDABLE CARE ACT.

17 **6–103.2.**

18           (A) (1) (I) NOTWITHSTANDING § 2–114 OF THIS ARTICLE,  
19 BEGINNING JANUARY 1, 2015, FROM THE TAX DESCRIBED IN PARAGRAPH (2) OF  
20 THIS SUBSECTION, A PORTION SHALL BE DISTRIBUTED ANNUALLY TO THE  
21 MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31–107  
22 OF THIS ARTICLE FOR THE SOLE PURPOSE OF FUNDING THE OPERATION AND  
23 ADMINISTRATION OF THE MARYLAND HEALTH BENEFIT EXCHANGE.

24           (II) THE OPERATION AND ADMINISTRATION OF THE  
25 MARYLAND HEALTH BENEFIT EXCHANGE MAY INCLUDE FUNCTIONS  
26 DELEGATED BY THE MARYLAND HEALTH BENEFIT EXCHANGE TO A THIRD  
27 PARTY UNDER LAW OR BY CONTRACT.

28           (2) (I) THE DISTRIBUTION UNDER PARAGRAPH (1) OF THIS  
29 SUBSECTION SHALL BE ALLOCATED FROM THE TAX IMPOSED ON A PERSON  
30 UNDER § 6–102 OF THIS SUBTITLE ON PREMIUMS FOR HEALTH INSURANCE.

31           (II) FOR PURPOSES OF THIS PARAGRAPH, “PERSON” DOES  
32 NOT INCLUDE:

1 1. A MANAGED CARE ORGANIZATION AUTHORIZED  
2 BY TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE; OR

3 2. A FOR PROFIT HEALTH MAINTENANCE  
4 ORGANIZATION AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH –  
5 GENERAL ARTICLE.

6 (B) FOR STATE FISCAL YEAR 2015 AND EACH STATE FISCAL YEAR  
7 THEREAFTER, THE AMOUNT TO BE DISTRIBUTED UNDER SUBSECTION (A) OF  
8 THIS SECTION SHALL BE SUFFICIENT TO FULLY FUND THE OPERATION AND  
9 ADMINISTRATION OF THE MARYLAND HEALTH BENEFIT EXCHANGE FOR THE  
10 STATE FISCAL YEAR.

11 8–301.

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

13 (b) (1) “Administrator” means a person that, to the extent that the person  
14 acting for an insurer or plan sponsor, has:

15 (i) control over or custody of premiums, contributions, or any  
16 other money with respect to a plan, for any period of time; or

17 (ii) discretionary authority over the adjustment, payment, or  
18 settlement of benefit claims under a plan or over the investment of a plan’s assets.

19 (2) “Administrator” does not include a person that:

20 (i) with respect to a particular plan:

21 1. is, or is an employee of, the plan sponsor;

22 2. is, or is an employee, insurance producer, managing  
23 general agent of, an insurer or health maintenance organization that insures or  
24 administers the plan; or

25 3. is an insurance producer that solicits, procures, or  
26 negotiates a plan for a plan sponsor and that has no authority over the adjustment,  
27 payment, or settlement of benefit claims under the plan or over the investment or  
28 handling of the plan’s assets;

29 (ii) is retained by the Life and Health Insurance Guaranty  
30 Corporation to administer a plan underwritten by an impaired insurer that is subject  
31 to an order of conservation, liquidation, or rehabilitation;

1 (iii) is a participant or beneficiary of a plan that provides for  
 2 individual accounts and allows a participant or beneficiary to exercise investment  
 3 control over assets in the participant's or beneficiary's account, and the participant or  
 4 beneficiary exercises that investment control;

5 (iv) administers only plans that are subject to ERISA and that  
 6 do not provide benefits through insurance, unless any of the plans administered is a  
 7 multiple employer welfare arrangement as defined in § 514(b)(6)(A)(ii) of ERISA;

8 (v) is, or is an employee of, a bank, savings bank, trust  
 9 company, savings and loan association, or credit union that is regulated under the  
 10 laws of this State, another state, or the United States; [or]

11 (vi) is, or is an employee of, a person that is registered as:

12 1. an investment adviser under the Investment Advisers  
 13 Act of 1940 or the Maryland Securities Act;

14 2. a broker–dealer or transfer agent under the Securities  
 15 Exchange Act of 1934 or the Maryland Securities Act; or

16 3. an investment company under the Investment  
 17 Company Act of 1940; OR

18 **(VII) IS, OR IS AN EMPLOYEE OF, THE MARYLAND HEALTH**  
 19 **BENEFIT EXCHANGE, INCLUDING THE MARYLAND HEALTH BENEFIT**  
 20 **EXCHANGE'S CONSOLIDATED SERVICES CENTER.**

21 14–502.

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

23 (b) The Plan is an independent unit of the State government.

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

27 (d) It is the intent of the General Assembly that the Plan operate as a  
 28 nonprofit entity and that Fund revenue, to the extent consistent with good business  
 29 practices, be used to:

30 **(1) subsidize health insurance coverage for medically uninsurable**  
 31 **individuals; AND**

1           **(2) FUND THE STATE REINSURANCE PROGRAM AUTHORIZED**  
 2 **UNDER § 31-117 OF THIS ARTICLE.**

3           (e) (1) The operations of the Plan are subject to the provisions of this  
 4 subtitle whether the operations are performed directly by the Plan itself or through an  
 5 entity contracted with the Plan.

6           (2) The Plan shall ensure that any entity contracted with the Plan  
 7 complies with the provisions of this subtitle when performing services that are subject  
 8 to this subtitle on behalf of the Plan.

9           **(F) (1) (I) ENROLLMENT IN THE PLAN SHALL BE CLOSED TO ANY**  
 10 **INDIVIDUAL WHO IS NOT ENROLLED IN THE PLAN AS OF DECEMBER 31, 2013.**

11                           **(II) A MEMBER ENROLLED IN THE PLAN AS OF DECEMBER**  
 12 **31, 2013, WHO THEREAFTER TERMINATES ENROLLMENT MAY NOT REENROLL IN**  
 13 **THE PLAN.**

14           **(2) ~~(F)~~ SUBJECT TO ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH~~**  
 15 **PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD, IN CONSULTATION WITH**  
 16 **THE MARYLAND HEALTH BENEFIT EXCHANGE, SHALL DETERMINE THE**  
 17 **APPROPRIATE DATE ON WHICH THE PLAN SHALL DECLINE TO REENROLL PLAN**  
 18 **MEMBERS BEYOND THE TERM OF THE MEMBERS' EXISTING PLAN COVERAGE.**

19                           **~~(H)~~ (3) THE DATE ON WHICH THE PLAN NO LONGER WILL**  
 20 **PROVIDE COVERAGE TO ~~ANY ALL PLAN MEMBER MEMBERS~~ SHALL BE NO**  
 21 **EARLIER THAN JANUARY 1, ~~2015~~ 2014, AND NO LATER THAN JANUARY 1, 2020.**

22           **(G) BEGINNING OCTOBER 1, 2013, AND ANNUALLY THEREAFTER UNTIL**  
 23 **THE PLAN NO LONGER PROVIDES COVERAGE TO MEMBERS, THE BOARD SHALL**  
 24 **PROVIDE NOTICE TO PLAN MEMBERS THAT, EFFECTIVE JANUARY 1, 2014, THE**  
 25 **MEMBER:**

26                           **(1) MAY NOT BE DENIED HEALTH INSURANCE BECAUSE OF A**  
 27 **PREEXISTING HEALTH CONDITION; AND**

28                           **(2) MAY BE ELIGIBLE TO:**

29                                   **(I) ENROLL IN THE MARYLAND MEDICAL ASSISTANCE**  
 30 **PROGRAM;**

31                                   **(II) PURCHASE A HEALTH BENEFIT PLAN OFFERED IN THE**  
 32 **MARYLAND HEALTH BENEFIT EXCHANGE OR IN THE INSURANCE MARKET**  
 33 **OUTSIDE THE MARYLAND HEALTH BENEFIT EXCHANGE; AND**

1                                    (III) RECEIVE FEDERAL PREMIUM AND COST-SHARING  
2 ASSISTANCE FOR THE PURCHASE OF A HEALTH BENEFIT PLAN IN THE  
3 MARYLAND HEALTH BENEFIT EXCHANGE.

4 14-504.

5            (a)    (1)    There is a Maryland Health Insurance Plan Fund.

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

8                                    (3)    The Treasurer shall separately hold and the Comptroller shall  
9 account for the Fund.

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

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

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

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

20            (b)    The Fund shall consist of:

21                                   (1)    premiums for coverage that the Plan issues;

22                                   (2)    money collected in accordance with § 19-214(d) of the Health –  
23 General Article;

24                                   (3)    money deposited by a nonprofit health service plan in accordance  
25 with § 14-513 of this subtitle;

26                                   (4)    income from investments that the Board makes or authorizes on  
27 behalf of the Fund;

28                                   (5)    interest on deposits or investments of money from the Fund;

29                                   (6)    premium tax revenue collected under § 14-107 of this title;

30                                   (7)    money collected by the Board as a result of legal or other actions  
31 taken by the Board on behalf of the Fund;

1 (8) money donated to the Fund; and

2 (9) money awarded to the Fund through grants.

3 (c) (1) The Board may allow the Administrator to use premiums collected  
4 by the Administrator from Plan enrollees to pay claims for Plan enrollees.

5 (2) The Administrator:

6 (i) shall deposit all premiums for Plan enrollees in a separate  
7 account, titled in the name of the State of Maryland, for the Maryland Health  
8 Insurance Plan; and

9 (ii) may use money in the account only to pay claims for Plan  
10 enrollees.

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

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

16 **(D) (1) (I) THE ADMINISTRATOR SHALL DEPOSIT ALL MONEY**  
17 **COLLECTED IN ACCORDANCE WITH § 19-214(D)(1)(II) OF THE HEALTH -**  
18 **GENERAL ARTICLE IN A SEPARATE ACCOUNT, TITLED IN THE NAME OF THE**  
19 **STATE OF MARYLAND, FOR THE MARYLAND HEALTH INSURANCE PLAN.**

20 **(II) THE ADMINISTRATOR SHALL KEEP COMPLETE AND**  
21 **SEPARATE RECORDS OF ALL TRANSACTIONS FOR THE SEPARATE ACCOUNT.**

22 **(2) BEGINNING JANUARY 1, ~~2015~~ 2014, AND SUBJECT TO §**  
23 **19-214(D)(5) OF THE HEALTH - GENERAL ARTICLE AND PARAGRAPH (3) OF**  
24 **THIS SUBSECTION, THE BOARD MAY ALLOW THE ADMINISTRATOR TO TRANSFER**  
25 **MONEY IN THE SEPARATE ACCOUNT INTO THE MARYLAND HEALTH BENEFIT**  
26 **EXCHANGE FUND FOR THE PURPOSE OF FUNDING THE STATE REINSURANCE**  
27 **PROGRAM AUTHORIZED UNDER § 31-117 OF THIS ARTICLE.**

28 **(3) A TRANSFER OF MONEY UNDER PARAGRAPH (2) OF THIS**  
29 **SUBSECTION:**

30 **(I) SHALL BE BASED ON THE DETERMINATION OF FUNDING**  
31 **NEEDS OF THE PLAN AND THE STATE REINSURANCE PROGRAM MADE UNDER**  
32 **PARAGRAPH (4) OF THIS SUBSECTION; AND**

1                   **(II) MAY BE MADE ONLY FROM MONEY IN THE SEPARATE**  
2 **ACCOUNT IN EXCESS OF THE AMOUNT DETERMINED UNDER PARAGRAPH (4)(I)**  
3 **OF THIS SUBSECTION.**

4                   **(4) ON OR BEFORE OCTOBER 1, 2013, AND ON OR BEFORE**  
5 **OCTOBER 1 OF EACH YEAR THEREAFTER UNTIL THE PLAN NO LONGER HAS ANY**  
6 **LIABILITY FOR CLAIMS SUBMITTED BY PLAN ENROLLEES, THE BOARD OF**  
7 **TRUSTEES OF THE MARYLAND HEALTH BENEFIT EXCHANGE AND THE BOARD**  
8 **OF THE PLAN SHALL DETERMINE:**

9                   **(I) THE AMOUNT OF MONEY IN THE SEPARATE ACCOUNT**  
10 **THAT WILL BE NEEDED TO PAY CLAIMS OF PLAN ENROLLEES, SUPPORT PLAN**  
11 **OPERATIONS, AND OTHERWISE MEET THE OBLIGATIONS OF THE PLAN FOR THE**  
12 **FOLLOWING CALENDAR YEAR; AND**

13                   **(II) THE AMOUNT OF MONEY THAT WILL BE NEEDED TO**  
14 **FUND THE OPERATIONS OF THE STATE REINSURANCE PROGRAM FOR THE**  
15 **FOLLOWING CALENDAR YEAR.**

16                   **(5) ON OR BEFORE DECEMBER 31, 2013, AND ON OR BEFORE**  
17 **DECEMBER 31 OF EACH YEAR THEREAFTER UNTIL THE PLAN NO LONGER HAS**  
18 **ANY LIABILITY FOR CLAIMS SUBMITTED BY PLAN ENROLLEES AND THE STATE**  
19 **REINSURANCE PROGRAM IS TERMINATED, THE BOARD OF TRUSTEES OF THE**  
20 **MARYLAND HEALTH BENEFIT EXCHANGE AND THE BOARD SHALL REPORT TO**  
21 **THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
22 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

23                   **(I) THE TRANSITION OF PLAN ENROLLEES OUT OF THE**  
24 **PLAN, INCLUDING:**

25                                   **1. HOW ENROLLEES ARE MADE AWARE OF CHANGES**  
26 **IN THEIR INSURANCE OPTIONS;**

27                                   **2. HOW ENROLLEES WILL BE ASSISTED THROUGH**  
28 **THE TRANSITION; AND**

29                                   **3. WHETHER ANY FUNDING WILL BE REQUIRED TO**  
30 **SUPPORT THE TRANSITION; AND**

31                   **(II) THE USE OF THE FUND FOR THE STATE REINSURANCE**  
32 **PROGRAM.**

1            **[(d)] (E)**     (1)     The Board shall take steps necessary to ensure that Plan  
2 enrollment does not exceed the number of enrollees the Plan has the financial capacity  
3 to insure.

4            (2)     The Board may adopt regulations to limit the enrollment of  
5 otherwise eligible medically uninsurable individuals whose premium is paid for by a  
6 pharmaceutical manufacturer or its affiliate if the Board determines that their  
7 enrollment would have an adverse financial impact on the Plan.

8            **[(e)] (F)**     (1)     In addition to the operation and administration of the Plan,  
9 the Fund shall be used:

10                    (i)     for the operation and administration of the Senior  
11 Prescription Drug Assistance Program established under Part II of this subtitle; and

12                    (ii)    to support the Department of Health and Mental Hygiene  
13 for the provision of mental health services to the uninsured under Title 10, Subtitle 2  
14 of the Health – General Article.

15            (2)     The Board shall maintain separate accounts within the Fund for  
16 the Senior Prescription Drug Assistance Program and the Maryland Health Insurance  
17 Plan.

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

20            **(4) (I)     BEGINNING JANUARY 1, ~~2015~~ 2014, THE FUNDS**  
21 **COLLECTED IN ACCORDANCE WITH § 19-214(D)(1)(II) OF THE HEALTH –**  
22 **GENERAL ARTICLE AND DEPOSITED IN THE MARYLAND HEALTH INSURANCE**  
23 **PLAN ACCOUNT OF THE FUND, MAY BE USED FOR THE PURPOSES OF**  
24 **ESTABLISHING AND OPERATING THE STATE REINSURANCE PROGRAM**  
25 **AUTHORIZED UNDER § 31-117 OF THIS ARTICLE.**

26                    **(II)     THE BOARD AND THE BOARD OF TRUSTEES OF THE**  
27 **MARYLAND HEALTH BENEFIT EXCHANGE SHALL DEVELOP AND APPROVE A**  
28 **PLAN FOR THE APPROPRIATE AMOUNT AND TIMING OF THE USE OF THE FUNDS**  
29 **FOR THE STATE REINSURANCE PROGRAM.**

30            **[(f)] (G)**     A debt or obligation of the Plan is not a debt of the State or a  
31 pledge of credit of the State.

32 ~~15-1303.~~

33            ~~(b) (1)     Except as provided in this subsection and § 31-110(f) of this~~  
34 ~~article, a carrier may not offer individual health benefit plans in the State unless the~~  
35 ~~carrier also offers qualified health plans, as defined in § 31-101 of this article, in the~~



~~Individual Exchange of the Maryland Health Benefit Exchange in compliance with the requirements of Title 31 of this article.~~

~~(2) A carrier is exempt from the requirement in paragraph (1) of this subsection if:~~

~~(i) 1. the reported total aggregate annual earned premium from all individual health benefit plans in the State for the carrier and any other carriers in the same insurance holding company system, as defined in § 7-101 of this article, is less than \$10,000,000; OR~~

~~2. THE ONLY INDIVIDUAL HEALTH BENEFIT PLANS THAT THE CARRIER OFFERS IN THE STATE ARE STUDENT HEALTH PLANS AS DEFINED IN 45 C.F.R. § 147.145;~~

~~(ii) the Commissioner determines that the carrier complies with the procedures established under paragraph (2) of this subsection; and~~

~~(iii) when the carrier ceases to meet the requirements for the exemption, the carrier provides to the Commissioner immediate notice and its plan for complying with the requirement in paragraph (1) of this subsection.~~

27-405.

(a) It is a fraudulent insurance act for a person to act as or represent to the public that the person is:

(1) an insurance producer or a public adjuster in the State if the person has not received the appropriate license under or otherwise complied with Title 10 of this article;

(2) A NAVIGATOR OF THE SMALL BUSINESS HEALTH OPTIONS PROGRAM OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE LICENSE UNDER OR OTHERWISE COMPLIED WITH § 31-112 OF THIS ARTICLE; ~~OR~~

(3) A NAVIGATOR OF THE INDIVIDUAL EXCHANGE OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE CERTIFICATION UNDER OR OTHERWISE COMPLIED WITH § 31-113 OF THIS ARTICLE; OR

(4) AN APPLICATION COUNSELOR CERTIFIED BY THE INDIVIDUAL EXCHANGE OF THE MARYLAND HEALTH BENEFIT EXCHANGE IF THE PERSON HAS NOT RECEIVED THE APPROPRIATE CERTIFICATION UNDER OR OTHERWISE COMPLIED WITH § 31-113(R) OF THIS ARTICLE.

1 31-101.

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

3 **(A-1) “APPLICATION COUNSELOR” MEANS AN INDIVIDUAL WHO**  
 4 **HOLDS AN INDIVIDUAL EXCHANGE APPLICATION COUNSELOR CERTIFICATION**  
 5 **ISSUED UNDER § 31-113(R) OF THIS TITLE.**

6 **(A-2) “APPLICATION COUNSELOR SPONSORING ENTITY” OR**  
 7 **“SPONSORING ENTITY” MEANS AN ENTITY DESIGNATED BY THE INDIVIDUAL**  
 8 **EXCHANGE AS A SPONSORING ENTITY UNDER § 31-113(R) OF THIS TITLE.**

9 **(C-1) “CAPTIVE PRODUCER” MEANS AN INSURANCE PRODUCER**  
 10 **WHO:**

11 **(I) IS LICENSED IN THE STATE AND AUTHORIZED BY THE**  
 12 **COMMISSIONER TO SELL, SOLICIT, OR NEGOTIATE HEALTH INSURANCE;**

13 **(II) RECEIVES AN AUTHORIZATION AND MEETS THE OTHER**  
 14 **REQUIREMENTS SET FORTH IN § 31-113(N)(2) OF THIS TITLE;**

15 **(III) HAS A CURRENT AND EXCLUSIVE APPOINTMENT WITH A**  
 16 **SINGLE CARRIER; AND**

17 **(IV) RECEIVES COMPENSATION AS A CAPTIVE PRODUCER**  
 18 **ONLY FROM THAT CARRIER.**

19 ~~**(C-1)**~~ **(C-2) “CONSOLIDATED SERVICES CENTER” OR “CSC” MEANS**  
 20 **THE CONSUMER ASSISTANCE CALL CENTER ESTABLISHED IN ACCORDANCE**  
 21 **WITH THE REQUIREMENT TO OPERATE A TOLL-FREE HOTLINE UNDER §**  
 22 **1311(D)(4) OF THE AFFORDABLE CARE ACT AND § 31-108(B)(5) OF THIS TITLE.**

23 (i) “Individual Exchange navigator” means an individual who:

24 (1) holds an Individual Exchange navigator certification; and

25 (2) provides the services described in § 31-113(d)(1) of this title for an  
 26 Individual Exchange [navigator] CONNECTOR entity.

27 (k) “Individual Exchange [navigator] CONNECTOR entity” means a  
 28 community- based organization or other entity or a partnership of entities that:

29 (1) is authorized by the Individual Exchange under § 31-113(f) of this  
 30 title; and

1                   (2) employs or engages Individual Exchange navigators to provide the  
2 services described in § 31–113(d)(1) of this title.

3                   (1) “Individual Exchange [navigator] CONNECTOR entity authorization”  
4 means a grant of authority from the Individual Exchange to an Individual Exchange  
5 [navigator] CONNECTOR entity under § 31–113(f) of this title.

6 31–103.

7           (a) The Exchange is subject to:

8                   (1) the following provisions of the State Finance and Procurement  
9 Article:

10                           (i) Title 12, Subtitle 4 (Policies and Procedures for Exempt  
11 Units); and

12                           (ii) Title 14, Subtitle 3 (Minority Business Participation);

13                   (2) the following provisions of the State Government Article:

14                           (i) Title 10, Subtitle 1 (Governmental Procedures);

15                           (ii) Title 10, Subtitle 5 (Meetings);

16                           (iii) Title 10, Subtitle 6, Part III (Access to Public Records);

17                           (iv) Title 12 (Immunity and Liability); and

18                           (v) Title 15 (Public Ethics); and

19                   (3) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

20           (b) The Exchange is not subject to:

21                   (1) taxation by the State or local government;

22                   (2) Division II of the State Finance and Procurement Article, except as  
23 provided in subsection (a)(1) of this section;

24                   (3) Title 10 of the State Government Article, except as provided in  
25 subsection (a)(2)(i), (ii), and (iii) of this section; **[or]**

26                   (4) Division I of the State Personnel and Pensions Article, except as  
27 provided in subsection (a)(3) of this section and elsewhere in this title; **OR**

1           (5) THIS ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (C) OF  
2 THIS SECTION AND ELSEWHERE IN THIS TITLE.

3           ~~(c) TO THE EXTENT THAT THE EXCHANGE, ACTING ON BEHALF OF A~~  
4 ~~CARRIER OFFERING A QUALIFIED PLAN IN THE INDIVIDUAL EXCHANGE OR THE~~  
5 ~~SHOP EXCHANGE, ASSUMES AN OBLIGATION BY CONTRACT OR OTHER~~  
6 ~~AGREEMENT TO COLLECT PREMIUMS, CONDUCT BILLING, SEND REQUIRED~~  
7 ~~NOTICES, PROVIDE REQUIRED DISCLOSURES, OR PERFORM ANY OTHER~~  
8 ~~FUNCTION NORMALLY PERFORMED BY A CARRIER UNDER THIS ARTICLE, THE~~  
9 ~~CARRIER SHALL RETAIN THE RESPONSIBILITY FOR ENSURING THAT THE~~  
10 ~~CONSUMER PROTECTIONS REQUIRED BY THIS ARTICLE ARE AFFORDED THE~~  
11 ~~SMALL EMPLOYER AND THE ENROLLEES IN THE QUALIFIED PLAN.~~

12           (c) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS  
13 SUBSECTION, TO THE EXTENT THAT THE EXCHANGE, ACTING ON BEHALF OF A  
14 CARRIER OFFERING A QUALIFIED PLAN IN THE INDIVIDUAL EXCHANGE OR THE  
15 SHOP EXCHANGE, IS REQUIRED BY LAW OR CONTRACT TO COLLECT  
16 PREMIUMS, CONDUCT BILLING, SEND REQUIRED NOTICES, PROVIDE REQUIRED  
17 DISCLOSURES, OR TAKE ANY OTHER ACTION NORMALLY TAKEN BY A CARRIER  
18 UNDER THIS ARTICLE, THE CARRIER IS NOT LIABLE OR SUBJECT TO  
19 REGULATORY SANCTION BY THE COMMISSIONER FOR THE FAILURE OF THE  
20 EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION  
21 UNDER THIS SUBSECTION.

22           (2) (i) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
23 THE COMMISSIONER SHALL REGULATE THE EXCHANGE IN TAKING AN ACTION  
24 UNDER THIS SUBSECTION.

25           (ii) IF THE COMMISSIONER FINDS THAT THE EXCHANGE  
26 HAS FAILED TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION  
27 UNDER THIS SUBSECTION, THE COMMISSIONER:

28                   1. MAY NOT IMPOSE A FINE OR AN ADMINISTRATIVE  
29 PENALTY ON THE EXCHANGE; AND

30                   2. MAY REQUIRE THE EXCHANGE TO:

31                   A. MAKE RESTITUTION, NOT TO EXCEED THE  
32 AMOUNT OF ACTUAL ECONOMIC DAMAGES SUSTAINED BY THE CONSUMER, TO A  
33 CONSUMER WHO HAS SUSTAINED ACTUAL ECONOMIC DAMAGES BECAUSE OF  
34 THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN  
35 TAKING AN ACTION; AND

1           B. MAKE RESTITUTION, NOT TO EXCEED THE  
2 AMOUNT OF ACTUAL PREMIUM, PREMIUM SUBSIDIES, OR COST-SHARING  
3 SUBSIDIES THE CARRIER DID NOT RECEIVE, TO A CARRIER THAT HAS  
4 AUTHORIZED, PROVIDED, OR PAID FOR HEALTH CARE SERVICES WITHOUT  
5 RECEIVING PREMIUM, PREMIUM SUBSIDIES, OR COST-SHARING SUBSIDIES THE  
6 CARRIER OTHERWISE WOULD HAVE RECEIVED BUT FOR THE FAILURE OF THE  
7 EXCHANGE TO COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION.

8           (3) (I) THE EXCHANGE AND THE CARRIER SHALL HOLD A  
9 CONSUMER HARMLESS FROM ANY ADVERSE CONSEQUENCE THAT IS:

10           1. RELATED TO THE CONSUMER'S PURCHASE OF, OR  
11 COVERAGE UNDER, A QUALIFIED PLAN; AND

12           2. CAUSED BY THE FAILURE OF THE EXCHANGE TO  
13 COMPLY WITH THE LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS  
14 SUBSECTION.

15           (II) HOLDING THE CONSUMER HARMLESS SHALL INCLUDE:

16           1. THE EXTENSION OF DEADLINES OR OTHER  
17 ACCOMMODATIONS NECESSARY TO PROTECT THE CONSUMER; AND

18           2. THE CARRIER'S AUTHORIZATION OF, PROVISION  
19 OF, OR PAYMENT FOR HEALTH CARE SERVICES THE CARRIER OTHERWISE  
20 WOULD BE UNDER AN OBLIGATION TO AUTHORIZE, PROVIDE, OR PAY FOR  
21 EXCEPT FOR THE FAILURE OF THE EXCHANGE TO COMPLY WITH THE LAW OR  
22 CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION.

23           (4) THE COMMISSIONER, IN THE COMMISSIONER'S ROLE AS A  
24 MEMBER OF THE BOARD, MAY NOT PARTICIPATE IN ANY MATTER THAT  
25 INVOLVES THE ALLEGED FAILURE OF THE EXCHANGE TO COMPLY WITH THE  
26 LAW OR CONTRACT IN TAKING AN ACTION UNDER THIS SUBSECTION IF, IN THE  
27 COMMISSIONER'S JUDGMENT, THE COMMISSIONER'S PARTICIPATION MIGHT  
28 CREATE A CONFLICT OF INTEREST WITH RESPECT TO THE COMMISSIONER'S  
29 REGULATORY AUTHORITY OVER THE EXCHANGE'S TAKING AN ACTION UNDER  
30 THIS SUBSECTION.

31           (D) ~~THIS~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,  
32 THIS SECTION DOES NOT:

33           (1) AFFECT THE COMMISSIONER'S AUTHORITY TO REGULATE A  
34 CARRIER UNDER THIS ARTICLE; OR



1 [9.] I. experts in services and care coordination for  
 2 criminal and juvenile justice populations;

3 [10.] J. licensed hospice providers; and

4 [11.] K. other health care professionals;

5 [(vi)] 6. managed care organizations;

6 [(vii)] 7. employers, including large, small, and  
 7 minority-owned employers;

8 [(viii)] 8. public employee unions, including public  
 9 employee union members who are caseworkers in local departments of social services  
 10 with direct knowledge of information technology systems used for Medicaid eligibility  
 11 determination;

12 [(ix)] 9. consumers, including individuals who:

13 [1.] A. reside in lower-income and racial or ethnic  
 14 minority communities;

15 [2.] B. have chronic diseases or disabilities; or

16 [3.] C. belong to other hard-to-reach or special  
 17 populations;

18 [(x)] 10. individuals with knowledge and expertise in advocacy  
 19 for consumers described in item [(ix)] 9 of this item;

20 [(xi)] 11. public health researchers and other academic experts  
 21 with knowledge and background relevant to the functions and goals of the Exchange,  
 22 including knowledge of the health needs and health disparities among the State's  
 23 diverse communities; and

24 [(xii)] 12. any other stakeholders identified by the Exchange as  
 25 having knowledge or representing interests relevant to the functions and duties of the  
 26 Exchange.

27 **(2) IN ADDITION TO THE AD HOC ADVISORY COMMITTEES**  
 28 **CREATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD, ON OR**  
 29 **BEFORE MARCH 15, 2014, SHALL CREATE A STANDING ADVISORY COMMITTEE**  
 30 **THAT:**

1                    (I) CONSISTS OF MEMBERS WHO, TO THE EXTENT  
 2 PRACTICABLE:

3                    1. REFLECT THE GENDER, RACIAL, ETHNIC, AND  
 4 GEOGRAPHIC DIVERSITY OF THE STATE;

5                    2. CONSTITUTE A DIVERSE CROSS-SECTION OF  
 6 STAKEHOLDERS BROADLY REPRESENTATIVE OF THE INDIVIDUALS AND  
 7 ENTITIES DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION; AND

8                    3. ARE APPOINTED BY THE BOARD FOR A TERM OF  
 9 NO MORE THAN 3 YEARS IN A MANNER THAT PROVIDES CONTINUITY AND  
 10 ROTATION;

11                    (II) HAS A LIAISON TO THE BOARD WHO IS A MEMBER OF  
 12 THE BOARD AND IS APPOINTED BY THE CHAIR OF THE BOARD; AND

13                    (III) IS CHARGED WITH THE RESPONSIBILITY OF  
 14 ADDRESSING THE BROAD RANGE OF POLICY ISSUES:

15                    1. ON WHICH THE BOARD MAY SEEK ITS INPUT AND  
 16 ADVICE; AND

17                    2. THAT MAY BE PROPOSED BY THE LIAISON TO THE  
 18 BOARD, IN CONSULTATION WITH THE STANDING ADVISORY COMMITTEE CHAIR  
 19 AND MEMBERS.

20 31–107.

21            (a) There is a Maryland Health Benefit Exchange Fund.

22            (b) (1) The purpose of the Fund is to:

23                    ~~(1)~~ (I) provide funding for the operation and administration of the  
 24 Exchange in carrying out the purposes of the Exchange under this title; AND

25                    ~~(2)~~ (II) PROVIDE FUNDING FOR THE ESTABLISHMENT AND  
 26 OPERATION OF THE STATE REINSURANCE PROGRAM AUTHORIZED UNDER §  
 27 31–117 OF THIS TITLE.

28                    (2) THE OPERATION AND ADMINISTRATION OF THE EXCHANGE  
 29 AND THE STATE REINSURANCE PROGRAM MAY INCLUDE FUNCTIONS  
 30 DELEGATED BY THE EXCHANGE TO A THIRD PARTY UNDER LAW OR BY  
 31 CONTRACT.



1 (c) The Exchange shall administer the Fund.

2 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
3 7-302 of the State Finance and Procurement Article.

4 (2) The State Treasurer shall hold the Fund separately, and the  
5 Comptroller shall account for the Fund.

6 (e) The Fund consists of:

7 (1) any user fees or other assessments collected by the Exchange;

8 **(2) ALL REVENUE DEPOSITED INTO THE FUND THAT IS RECEIVED**  
9 **FROM THE DISTRIBUTION OF THE PREMIUM TAX UNDER § 6-103.2 OF THIS**  
10 **ARTICLE;**

11 ~~(2)~~ **(3) ALL REVENUE THAT IS DEPOSITED INTO THE FUND**  
12 **UNDER § 14-504(D) OF THIS ARTICLE FROM THE SEPARATE ACCOUNT OF THE**  
13 **MARYLAND HEALTH INSURANCE PLAN FUND THAT HOLDS MONEY COLLECTED**  
14 **UNDER § 19-214(D)(1)(II) OF THE HEALTH - GENERAL ARTICLE;**

15 [(2)] ~~(3)~~ **(4)** income from investments made on behalf of the Fund;

16 [(3)] ~~(4)~~ **(5)** interest on deposits or investments of money in the Fund;

17 [(4)] ~~(5)~~ **(6)** money collected by the Board as a result of legal or other  
18 actions taken by the Board on behalf of the Exchange or the Fund;

19 [(5)] ~~(6)~~ **(7)** money donated to the Fund;

20 [(6)] ~~(7)~~ **(8)** money awarded to the Fund through grants; and

21 [(7)] ~~(8)~~ **(9)** any other money from any other source accepted for the  
22 benefit of the Fund.

23 (f) The Fund may be used only [to provide funding]:

24 (1) for the operation and administration of the Exchange in carrying  
25 out the purposes authorized under this title; AND

26 (2) **FOR THE ESTABLISHMENT AND OPERATION OF THE STATE**  
27 **REINSURANCE PROGRAM AUTHORIZED UNDER § 31-117 OF THIS TITLE.**

1           **(G) (1) THE BOARD SHALL MAINTAIN SEPARATE ACCOUNTS WITHIN**  
2 **THE FUND FOR EXCHANGE OPERATIONS AND FOR THE STATE REINSURANCE**  
3 **PROGRAM.**

4           **(2) ACCOUNTS WITHIN THE FUND SHALL CONTAIN THOSE**  
5 **MONEYS THAT ARE INTENDED TO SUPPORT THE PURPOSE FOR WHICH EACH**  
6 **ACCOUNT IS DESIGNATED.**

7           **(3) FUNDS RECEIVED FROM THE DISTRIBUTION OF THE PREMIUM**  
8 **TAX UNDER § 6-103.2 OF THIS ARTICLE SHALL BE PLACED IN THE ACCOUNT FOR**  
9 **EXCHANGE OPERATIONS AND MAY BE USED ONLY FOR THE PURPOSE OF**  
10 **FUNDING THE OPERATION AND ADMINISTRATION OF THE EXCHANGE.**

11           **(H) (1) EXPENDITURES FROM THE FUND FOR THE PURPOSES**  
12 **AUTHORIZED BY THIS SUBTITLE MAY BE MADE ONLY:**

13                   **(I) WITH AN APPROPRIATION FROM THE FUND APPROVED**  
14 **BY THE GENERAL ASSEMBLY IN THE STATE BUDGET; OR**

15                   **(II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED**  
16 **FOR IN TITLE 7, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT**  
17 **ARTICLE.**

18           **(2) NOTWITHSTANDING § 7-304 OF THE STATE FINANCE AND**  
19 **PROCUREMENT ARTICLE, IF THE AMOUNT OF THE DISTRIBUTION FROM THE**  
20 **PREMIUM TAX UNDER § 6-103.2 OF THIS ARTICLE EXCEEDS IN ANY STATE**  
21 **FISCAL YEAR THE ACTUAL EXPENDITURES INCURRED FOR THE OPERATION AND**  
22 **ADMINISTRATION OF THE EXCHANGE, FUNDS IN THE EXCHANGE OPERATIONS**  
23 **ACCOUNT FROM THE PREMIUM TAX THAT REMAIN UNSPENT AT THE END OF THE**  
24 **STATE FISCAL YEAR SHALL REVERT TO THE GENERAL FUND OF THE STATE.**

25           **(3) IF OPERATING EXPENSES OF THE EXCHANGE MAY BE**  
26 **CHARGED TO EITHER STATE OR NON-STATE FUND SOURCES, THE NON-STATE**  
27 **FUNDS SHALL BE CHARGED BEFORE STATE FUNDS ARE CHARGED.**

28           **[(g)] ~~(H)~~ (I) (1) The State Treasurer shall invest the money of the Fund in**  
29 **the same manner as other State money may be invested.**

30           **(2) Any investment earnings of the Fund shall be credited to the Fund.**

31           **(3) ~~No~~ EXCEPT AS PROVIDED IN SUBSECTION (H)(2) OF THIS**  
32 **SECTION, NO part of the Fund may revert or be credited to the General Fund or any**  
33 **special fund of the State.**

1            ~~[(h)]~~ ~~(I)~~ **(J)** A debt or an obligation of the Fund is not a debt of the State or a  
2      pledge of credit of the State.

3      **31-107.1.**

4            **(A)** THE BOARD SHALL ESTABLISH A TRUST ACCOUNT TO HOLD  
5      PREMIUM PAYMENTS ACCEPTED FROM QUALIFIED PLAN ENROLLEES AND  
6      SMALL EMPLOYERS BY THE EXCHANGE ON BEHALF OF A CARRIER UNDER  
7      CONTRACT OR OTHER AGREEMENT.

8            **(B)** THE TRUST ACCOUNT MAY BE USED ONLY TO HOLD A PREMIUM  
9      PAYMENT UNTIL THE EXCHANGE TRANSMITS THE PREMIUM PAYMENT TO THE  
10     CARRIER ON WHOSE BEHALF THE EXCHANGE ACCEPTED THE PREMIUM  
11     PAYMENT.

12          **(C)** THE EXCHANGE SHALL MAINTAIN SEPARATE RECORDS OF  
13     ACCOUNT FOR EACH CARRIER ON WHOSE BEHALF IT ACCEPTS PREMIUM  
14     PAYMENTS.

15          **(D)** THE PAYMENT OF A PREMIUM BY AN ENROLLEE OR A SMALL  
16     EMPLOYER TO THE EXCHANGE IS DEEMED TO BE A PAYMENT TO THE CARRIER  
17     ON WHOSE BEHALF THE EXCHANGE ACCEPTED THE PREMIUM PAYMENT.

18     **31-107.2.**

19          **(A)** **(1)** FOR STATE FISCAL YEAR 2015 AND FOR EACH STATE FISCAL  
20     YEAR THEREAFTER, FROM THE FUNDS DESCRIBED IN PARAGRAPH (2) OF THIS  
21     SUBSECTION RECEIVED FROM THE DISTRIBUTION OF THE PREMIUM TAX UNDER  
22     § 6-103.2 OF THIS ARTICLE, THE GOVERNOR SHALL PROVIDE AN  
23     APPROPRIATION IN THE STATE BUDGET ADEQUATE TO FULLY FUND THE  
24     OPERATIONS OF THE EXCHANGE.

25          ~~**(2)** THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS~~  
26     ~~SUBSECTION SHALL BE ALLOCATED FROM THE PREMIUM TAX ASSESSED UNDER~~  
27     ~~§ 6-102 OF THIS ARTICLE THAT IS PAID BY:~~

28                    ~~**(I)** AN INSURER THAT OFFERS, ISSUES, OR DELIVERS A~~  
29     ~~HEALTH BENEFIT PLAN IN THE STATE; AND~~

30                    ~~**(II)** A FOR-PROFIT HEALTH MAINTENANCE ORGANIZATION~~  
31     ~~AUTHORIZED BY TITLE 19, SUBTITLE 7 OF THE HEALTH GENERAL ARTICLE.~~

32                    **(2)** **(1)** FOR STATE FISCAL YEAR 2015, THE APPROPRIATION  
33     SHALL BE NO LESS THAN \$10,000,000.

1                   **(II) FOR EACH STATE FISCAL YEAR THEREAFTER, THE**  
2 **APPROPRIATION SHALL BE NO LESS THAN \$35,000,000.**

3           **(B) FUNDS ALLOCATED FROM THE PREMIUM TAX UNDER SUBSECTION**  
4 **(A) OF THIS SECTION TO PROVIDE THE APPROPRIATION TO THE EXCHANGE MAY**  
5 **BE USED ONLY FOR THE PURPOSE OF FUNDING THE ~~OPERATIONS~~ OPERATION**  
6 **AND ADMINISTRATION OF THE EXCHANGE.**

7           **(C) IF, IN ANY STATE FISCAL YEAR, THE AMOUNT OF THE ALLOCATION**  
8 **FROM THE PREMIUM TAX IS INSUFFICIENT TO MEET THE ACTUAL**  
9 **EXPENDITURES INCURRED FOR THE OPERATION AND ADMINISTRATION OF THE**  
10 **EXCHANGE, THE GOVERNOR MAY PROVIDE AN ADDITIONAL APPROPRIATION BY**  
11 **DEFICIENCY APPROPRIATION.**

12           **(D) FUNDS NOTWITHSTANDING § 7-304 OF THE STATE FINANCE AND**  
13 **PROCUREMENT ARTICLE, FUNDS ALLOCATED TO THE EXCHANGE UNDER THIS**  
14 **SECTION THAT REMAIN UNSPENT AT THE END OF A FISCAL YEAR SHALL REVERT**  
15 **TO THE GENERAL FUND OF THE STATE.**

16 31-108.

17           **(C) (1) IN CARRYING OUT THE FUNCTIONS UNDER SUBSECTIONS (A)**  
18 **AND (B) OF THIS SECTION, THE EXCHANGE SHALL COMPLY WITH § 508 OF THE**  
19 **FEDERAL REHABILITATION ACT OF 1973 AND ANY REGULATIONS ADOPTED**  
20 **UNDER § 508 OF THE ACT.**

21           **(2) THE OBLIGATION FOR THE EXCHANGE TO COMPLY WITH § 508**  
22 **OF THE FEDERAL REHABILITATION ACT OF 1973 DOES NOT AFFECT ANY OTHER**  
23 **REQUIREMENTS RELATING TO ACCESSIBILITY FOR PERSONS WITH DISABILITIES**  
24 **TO WHICH THE EXCHANGE MAY BE SUBJECT UNDER THE FEDERAL AMERICANS**  
25 **WITH DISABILITIES ACT OF 1990.**

26           **[(c)] (D) If an individual enrolls in another type of minimum essential**  
27 **coverage, neither the Exchange nor a carrier offering qualified health plans through**  
28 **the Exchange may charge the individual a fee or penalty for termination of coverage**  
29 **on the grounds that:**

30                   **(1) the individual has become newly eligible for that coverage; or**

31                   **(2) the individual's employer-sponsored coverage has become**  
32 **affordable under the standards of § 36b(c)(2)(c) of the Internal Revenue Code.**

33           **[(d)] (E) The Exchange, through the advisory committees established under**  
34 **§ 31-106(g) of this title or through other means, shall consult with and consider the**

1 recommendations of the stakeholders represented on the advisory committees in the  
2 exercise of its duties under this title.

3 **[(e)] (F)** The Exchange may not make available:

4 (1) any health benefit plan that is not a qualified health plan;

5 (2) any dental plan that is not a qualified dental plan; or

6 (3) any vision plan that is not a qualified vision plan.

7 31–111.

8 (a) The SHOP Exchange:

9 (1) shall be a separate insurance market within the Exchange for  
10 small employers; and

11 (2) may not be merged with the individual market of the Individual  
12 Exchange.

13 (b) The SHOP Exchange shall be designed to balance:

14 (1) the viability of the SHOP Exchange as an alternative for qualified  
15 employers and their employees who have not been able historically to access and  
16 afford insurance in the small group market;

17 (2) the need for stability and predictability in employers' health  
18 insurance costs incurred on behalf of their employees;

19 (3) the desirability of providing employees with a meaningful choice  
20 among high-quality and affordable health benefit plans; and

21 (4) the need to facilitate continuity of care for employees who change  
22 employers or health benefit plans.

23 (c) The SHOP Exchange shall allow qualified employers to:

24 (1) as required by regulations adopted by the Secretary under the  
25 Affordable Care Act, designate a coverage level within which their employees may  
26 choose any qualified health plan; or

27 (2) designate a carrier or an insurance holding company system, as  
28 defined in § 7–101 of this article, and a menu of qualified health plans offered by the  
29 carrier or the insurance holding company system in the SHOP Exchange from which  
30 their employees may choose.

1 (d) In addition to the options set forth in subsection (c) of this section, the  
2 SHOP Exchange also may allow qualified employers to designate one or more qualified  
3 dental plans and qualified vision plans to be made available to their employees.

4 (E) (1) A QUALIFIED EMPLOYER IS NOT REQUIRED TO CONTRIBUTE  
5 TO THE QUALIFIED PLAN PREMIUMS OF ITS EMPLOYEES.

6 (2) (I) IF A QUALIFIED EMPLOYER CHOOSES TO CONTRIBUTE  
7 TO THE QUALIFIED PLAN PREMIUMS OF ITS EMPLOYEES, THE QUALIFIED  
8 EMPLOYER SHALL:

9 1. SELECT A REFERENCE PLAN ON WHICH THE  
10 CONTRIBUTIONS WILL BE BASED; AND

11 2. MAKE A CONTRIBUTION THAT IS:

12 A. A FIXED PERCENTAGE OF THE PREMIUM OF THE  
13 REFERENCE PLAN, BASED ON THE COVERAGE LEVEL SELECTED BY THE  
14 MEMBER AND THE MEMBER'S JOB CLASSIFICATION, IF OTHERWISE  
15 PERMISSIBLE; OR

16 B. A DOLLAR AMOUNT THAT ENSURES THAT ALL OF  
17 THE QUALIFIED EMPLOYER'S EMPLOYEES WITH THE SAME COVERAGE LEVEL  
18 AND JOB CLASSIFICATION WOULD PAY THE SAME AMOUNT IF THEY PURCHASED  
19 THE REFERENCE PLAN.

20 (II) A REFERENCE PLAN SELECTED UNDER SUBPARAGRAPH  
21 (I)1 OF THIS PARAGRAPH:

22 1. UNDER THE EMPLOYER CHOICE MODEL, SHALL BE  
23 A QUALIFIED PLAN THAT IS:

24 A. OFFERED BY THE CARRIER OR INSURANCE  
25 HOLDING COMPANY SYSTEM SELECTED BY THE QUALIFIED EMPLOYER; AND

26 B. AMONG THE QUALIFIED PLANS OF THE CARRIER  
27 OR INSURANCE HOLDING COMPANY SYSTEM SELECTED BY THE QUALIFIED  
28 EMPLOYER; OR

29 2. UNDER THE EMPLOYEE CHOICE MODEL, SHALL BE  
30 A QUALIFIED PLAN OFFERED BY ANY CARRIER AT THE METAL LEVEL SELECTED  
31 BY THE QUALIFIED EMPLOYER.

32 [(e)] (F) On or after January 1, 2016, in order to continue to promote the  
33 SHOP Exchange's principles of accessibility, choice, affordability, and sustainability,

1 and as it obtains more data on adverse selection, cost, enrollment, and other factors,  
2 the SHOP Exchange:

3 (1) may reassess and modify the manner in which the SHOP  
4 Exchange allows qualified employers to offer, and their employees to choose, qualified  
5 health plans and coverage levels;

6 (2) in reassessing employer and employee choice, may consider options  
7 which would promote the additional objective of increasing the portability of  
8 employees' health insurance as employees move from employer to employer or  
9 transition in and out of employment; and

10 (3) shall implement any modification of offerings and choice through  
11 regulations adopted by the SHOP Exchange.

12 31-112.

13 (h) (1) The SHOP Exchange, WITH THE APPROVAL OF THE  
14 COMMISSIONER AND IN CONSULTATION WITH STAKEHOLDERS, shall develop,  
15 implement, and, as appropriate, update training programs for:

16 (i) SHOP Exchange navigators; [and]

17 (ii) licensed insurance producers who seek authorization to sell  
18 qualified plans in the SHOP Exchange; AND

19 **(III) CONSOLIDATED SERVICES CENTER EMPLOYEES**  
20 **REQUIRED TO HOLD A SHOP EXCHANGE ENROLLMENT PERMIT.**

21 (2) The training programs shall:

22 (i) impart the skills and expertise necessary to perform  
23 functions specific to the SHOP Exchange, such as making tax credit eligibility  
24 determinations; and

25 (ii) enable the SHOP Exchange's navigator program **AND THE**  
26 **CONSOLIDATED SERVICES CENTER** to provide robust protection of consumers and  
27 adherence to high quality assurance standards.

28 31-113.

29 (a) (1) There is a navigator program for the Individual Exchange.

30 (5) The Commissioner may require the Individual Exchange to:

1                   (i) make available to the Commissioner all records, documents,  
2 data, and other information relating to the navigator program, including the  
3 authorization of Individual Exchange [navigator] CONNECTOR entities and the  
4 certification of Individual Exchange navigators; and

5                   (ii) submit a corrective plan to take appropriate action to  
6 address any problems or deficiencies identified by the Commissioner in the Individual  
7 Exchange [navigator] CONNECTOR entity authorization process or the Individual  
8 Exchange navigator certification process.

9           (b) The navigator program for the Individual Exchange shall:

10                   (1) focus outreach efforts and services on individuals without health  
11 insurance coverage;

12                   (2) use Individual Exchange [navigator] CONNECTOR entities that:

13                           (i) have expertise in working with vulnerable and  
14 hard-to-reach populations; and

15                           (ii) conduct outreach and provide enrollment support for these  
16 populations; and

17                   (3) enable the Individual Exchange to:

18                           (i) comply with the Affordable Care Act by providing seamless  
19 entry into the Maryland Medical Assistance Program, the Maryland Children's Health  
20 Program, and qualified plans;

21                           (ii) assist individuals who, **DUE TO FORMER INCARCERATION**  
22 **OR OTHER CIRCUMSTANCES,** transition between the types of coverage described in  
23 item (i) of this item or have lapsed enrollment; and

24                           (iii) meet consumer needs and demands for health insurance  
25 coverage while maintaining high standards of quality assurance and consumer  
26 protection.

27           (e) (1) The Exchange may authorize an Individual Exchange [navigator]  
28 CONNECTOR entity to provide consumer assistance services that:

29                           (i) are required to be provided by an Individual Exchange  
30 navigator; or

31                           (ii) subject to paragraph (2)(iii) of this subsection, result in a  
32 consumer's enrollment in the Maryland Medical Assistance Program or the Maryland  
33 Children's Health Program.



1           (2)    The Exchange:

2                   (i)    may limit the authorization of an Individual Exchange  
3 [navigator] CONNECTOR entity to the provision of a subset of services, depending on  
4 the needs of the Individual Exchange navigator program and the capacity of the  
5 Individual Exchange [navigator] CONNECTOR entity, provided that the navigator  
6 program overall provides the totality of services required by the Affordable Care Act  
7 and this subtitle;

8                   (ii)   pursuant to contractual agreement, may require an  
9 Individual Exchange [navigator] CONNECTOR entity to provide education, outreach,  
10 and other consumer assistance services in addition to the services provided under the  
11 Individual Exchange [navigator] CONNECTOR entity's authorization in order to  
12 achieve all of the objectives of the navigator program; and

13                   (iii) may not authorize an Individual Exchange [navigator]  
14 CONNECTOR entity to provide services that result in a consumer's enrollment in the  
15 Maryland Medical Assistance Program or the Maryland Children's Health Program  
16 without the approval of the Department of Health and Mental Hygiene.

17           (f)    An Individual Exchange [navigator] CONNECTOR entity:

18                   (1)    shall obtain authorization from the Individual Exchange to provide  
19 services that:

20                           (i)    are required to be provided by an Individual Exchange  
21 navigator; or

22                           (ii)   result in a consumer's enrollment in the Maryland Medical  
23 Assistance Program or the Maryland Children's Health Program;

24                   (2)    may provide:

25                           (i)    those services that are within the scope of the Individual  
26 Exchange [navigator] CONNECTOR entity's authorization; and

27                           (ii)   any other consumer assistance services that:

28                                   1.   are not required to be provided by an Individual  
29 Exchange navigator; or

30                                   2.   do not require authorization under this subsection;

1           (3) to the extent the scope of its authorization includes services that  
2 must be provided by an Individual Exchange navigator, shall provide those services  
3 only through Individual Exchange navigators;

4           (4) in addition to the services it may provide under its authorization,  
5 may employ or engage other individuals to conduct:

6                   (i) consumer education and outreach; and

7                   (ii) determinations of eligibility for premium subsidies and  
8 cost-sharing assistance, the Maryland Medical Assistance Program, and the Maryland  
9 Children's Health Program;

10           (5) may employ or engage individuals to perform activities that:

11                   (i) are executive, administrative, managerial, or clerical; and

12                   (ii) relate only indirectly to services that must be provided by an  
13 Individual Exchange navigator or result in a consumer's enrollment in the Maryland  
14 Medical Assistance Program or the Maryland Children's Health Program;

15           (6) shall comply with all State and federal laws, regulations, and  
16 policies governing the Maryland Medical Assistance Program and the Maryland  
17 Children's Health Program;

18           (7) may not receive any compensation, directly or indirectly:

19                   (i) from a carrier, an insurance producer, or a third-party  
20 administrator in connection with the enrollment of a qualified individual in a qualified  
21 health plan; or

22                   (ii) from any managed care organization that participates in the  
23 Maryland Medical Assistance Program in connection with the enrollment of an  
24 individual in the Maryland Medical Assistance Program or the Maryland Children's  
25 Health Program; and

26           (8) with respect to the insurance market outside the Exchange:

27                   (i) may not provide any information or services related to  
28 health benefit plans or other products not offered in the Exchange, except for general  
29 information about the insurance market outside the Exchange, which shall be limited  
30 to the information provided in a consumer education document developed by the  
31 Exchange and the Commissioner;

32                   (ii) shall refer any inquiries about health benefit plans or other  
33 products not offered in the Exchange to:

1                                   1.    any resources that may be maintained by the  
2 Exchange; or

3                                   2.    carriers and licensed insurance producers; and

4                                   (iii) on contact with an individual who acknowledges having  
5 existing health insurance coverage obtained through an insurance producer, shall  
6 refer the individual back to the insurance producer for information and services  
7 unless:

8                                   1.    the individual is eligible for but has not obtained a  
9 federal premium subsidy and cost-sharing assistance available only through the  
10 Individual Exchange;

11                                  2.    the insurance producer is not authorized to sell  
12 qualified plans in the Individual Exchange; or

13                                  3.    the individual would prefer not to seek further  
14 assistance from the individual's insurance producer.

15           (g)   (1)   The Commissioner may suspend or revoke an Individual Exchange  
16 [navigator] CONNECTOR entity authorization after notice and opportunity for a  
17 hearing under §§ 2-210 through 2-214 of this article if the Individual Exchange  
18 [navigator] CONNECTOR entity:

19                                  (i)   has willfully violated this article or any regulation adopted  
20 under this article;

21                                  (ii)   has engaged in fraudulent or dishonest practices in  
22 conducting activities under the Individual Exchange [navigator] CONNECTOR entity  
23 authorization;

24                                  (iii)   has had any professional license or certification suspended  
25 or revoked for a fraudulent or dishonest practice;

26                                  (iv)   has been convicted of a felony, a crime of moral turpitude, or  
27 any criminal offense involving dishonesty or breach of trust; or

28                                  (v)   has willfully failed to comply with or violated a proper order  
29 or subpoena of the Commissioner.

30                                  (2)   Instead of or in addition to suspending or revoking an Individual  
31 Exchange [navigator] CONNECTOR entity authorization, the Commissioner may:

32                                  (i)   impose a penalty of not less than \$100 but not exceeding  
33 \$500 for each violation of this article; and

1                   (ii) require that restitution be made to any person who has  
2 suffered financial injury because of the Individual Exchange [navigator] CONNECTOR  
3 entity's violation of this article.

4                   (3) The penalties available to the Commissioner under this subsection  
5 shall be in addition to any criminal or civil penalties imposed for fraud or other  
6 misconduct under any other State or federal law.

7                   (4) The Commissioner shall notify the Individual Exchange of any  
8 decision affecting the authorization of an Individual Exchange [navigator]  
9 CONNECTOR entity or any sanction imposed on an Individual [navigator]  
10 EXCHANGE CONNECTOR entity under this subsection.

11                   (5) A carrier is not responsible for the activities and conduct of  
12 Individual Exchange [navigator] CONNECTOR entities.

13           (h) An Individual Exchange navigator:

14                   (1) shall hold an Individual Exchange navigator certification issued  
15 under subsection (j) of this section;

16                   (2) may provide consumer assistance services that are required to be  
17 provided by an Individual Exchange navigator under subsection (d)(1) of this section;

18                   (3) may not be required to hold an insurance producer or adviser  
19 license;

20                   (4) shall be employed or engaged by an Individual Exchange ~~navigator~~  
21 CONNECTOR entity **OR BY THE EXCHANGE;**

22                   (5) shall receive compensation only through the Individual Exchange  
23 or an Individual Exchange ~~navigator~~ CONNECTOR entity and not from a carrier or an  
24 insurance producer;

25                   (6) may not receive any compensation, directly or indirectly:

26                   (i) from a carrier, an insurance producer, or a third-party  
27 administrator in connection with the enrollment of a qualified individual in a qualified  
28 health plan; or

29                   (ii) from a managed care organization that participates in the  
30 Maryland Medical Assistance Program in connection with the enrollment of an  
31 individual in the Maryland Medical Assistance Program or the Maryland Children's  
32 Health Program;

1 (7) with respect to the insurance market outside the Exchange, is  
2 subject to the same requirements applicable to Individual Exchange ~~navigator~~  
3 **CONNECTOR** entities as set forth in subsection (f)(8) of this section; and

4 (8) shall comply with all State and federal laws, regulations, and  
5 policies governing the Maryland Medical Assistance Program and the Maryland  
6 Children's Health Program.

7 (i) The Exchange:

8 (1) shall establish and administer [an] **A PROCESS FOR Individual**  
9 **Exchange navigator certification [process] AND THE ISSUANCE OF CONSOLIDATED**  
10 **SERVICES CENTER EMPLOYEE INDIVIDUAL EXCHANGE ENROLLMENT PERMITS;**

11 (2) in consultation with the Commissioner and the Department of  
12 Health and Mental Hygiene, shall adopt regulations to implement this subsection; and

13 (3) may implement the **PROCESS FOR Individual Exchange navigator**  
14 **certification [process] AND THE ISSUANCE OF CONSOLIDATED SERVICES CENTER**  
15 **EMPLOYEE INDIVIDUAL EXCHANGE ENROLLMENT PERMITS** with the assistance of  
16 the Commissioner and the Department of Health and Mental Hygiene, in accordance  
17 with one or more memoranda of understanding.

18 (k) (1) The Exchange, with the approval of the Commissioner and in  
19 consultation with the Department of Health and Mental Hygiene, **THE HEALTH**  
20 **EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE ATTORNEY**  
21 **GENERAL**, and stakeholders, shall develop, implement, and, as appropriate, update a  
22 training program for the certification of Individual Exchange navigators **AND THE**  
23 **ISSUANCE OF INDIVIDUAL EXCHANGE ENROLLMENT PERMITS FOR**  
24 **CONSOLIDATED SERVICES CENTER EMPLOYEES.**

25 (2) The training program shall:

26 (i) provide Individual Exchange navigators **AND**  
27 **CONSOLIDATED SERVICES CENTER EMPLOYEES** with the full range of skills,  
28 knowledge, and expertise necessary to meet the consumer assistance, eligibility,  
29 enrollment, renewal, and disenrollment needs of individuals:

30 1. eligible for the Maryland Medical Assistance Program  
31 and the Maryland Children's Health Program; or

32 2. seeking qualified plans offered in the Individual  
33 Exchange;

1 (ii) enable the navigator program for the Individual Exchange  
2 **AND THE EXCHANGE'S CONSOLIDATED SERVICES CENTER** to provide robust  
3 protection of consumers and adherence to high quality assurance standards; and

4 (iii) enable the Individual Exchange to ensure that, with respect  
5 to Individual Exchange navigators **AND CONSOLIDATED SERVICES CENTER**  
6 **EMPLOYEES** who offer any form of assistance to individuals regarding the Maryland  
7 Medical Assistance Program or the Maryland Children's Health Program, the  
8 Individual Exchange navigator certification program **AND CONSOLIDATED**  
9 **SERVICES CENTER** shall comply with all requirements of the Department of Health  
10 and Mental Hygiene.

11 (l) (4) The Commissioner shall notify the Individual Exchange and the  
12 Individual Exchange [navigator] CONNECTOR entity for which the Individual  
13 Exchange navigator works of any decision affecting the certification of an Individual  
14 Exchange navigator or any sanction imposed on an Individual Exchange navigator  
15 under this subsection.

16 (m) (1) The Exchange shall establish and administer an insurance  
17 producer authorization process for the Individual Exchange.

18 (2) Under the process, the Exchange shall:

19 (i) provide an authorization to sell qualified plans to a licensed  
20 insurance producer who meets the requirements in subsection (n) of this section; and

21 (ii) require renewal of an authorization every 2 years.

22 (3) (i) Subject to the contested case hearing provisions of Title 10,  
23 Subtitle 2 of the State Government Article, the Exchange may suspend, revoke, or  
24 refuse to renew an authorization for good cause, which shall include a finding that the  
25 insurance producer holding the authorization has committed any act described in  
26 subsection [(m)(1)] (L)(1) of this section with respect to the authorization.

27 (ii) The Individual Exchange shall notify the Commissioner of  
28 any decision affecting the status of an insurance producer's authorization.

29 (4) The Individual Exchange, with the approval of the Commissioner,  
30 shall adopt regulations to carry out this subsection.

31 (o) (1) The Exchange shall develop, implement, and, as appropriate,  
32 update a training program for insurance producers who sell qualified plans in the  
33 Individual Exchange.

34 (2) The training program shall:

1                   (i) impart the skills and expertise necessary to perform  
2 functions specific to the Individual Exchange, such as making premium assistance  
3 eligibility determinations;

4                   (ii) enable the Exchange to provide robust protection of  
5 consumers and adherence to high quality assurance standards; [and]

6                   **(III) IMPART THE SKILLS AND EXPERTISE NECESSARY TO**  
7 **FACILITATE APPROPRIATE REFERRALS OF INDIVIDUALS AND THEIR**  
8 **DEPENDENTS TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM, THE**  
9 **MARYLAND CHILDREN'S HEALTH PROGRAM, THE APPROPRIATE INDIVIDUAL**  
10 **EXCHANGE CONNECTOR ENTITY, AN INDEPENDENT INSURANCE PRODUCER, OR**  
11 **THE CONSOLIDATED SERVICES CENTER; AND**

12                   ~~[(iii)]~~ **(IV) be approved by the Commissioner.**

13                   **(P) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (7) OF THIS**  
14 **SUBSECTION, UNTIL JANUARY 1, 2017, A CAPTIVE PRODUCER, WITHOUT BEING**  
15 **SEPARATELY CERTIFIED AS AN INDIVIDUAL EXCHANGE NAVIGATOR, MAY**  
16 **ENROLL, IN A QUALIFIED PLAN OFFERED IN THE INDIVIDUAL EXCHANGE BY**  
17 **THE CARRIER FROM WHICH THE CAPTIVE PRODUCER HAS AN EXCLUSIVE**  
18 **APPOINTMENT:**

19                   **(I) AN INDIVIDUAL WHO:**

20                                   **1. IS CURRENTLY ENROLLED IN ONE OF THE**  
21 **CARRIER'S NONGROUP PLANS; AND**

22                                   **2. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
23 **SUBSECTION, DOES NOT HAVE AN INSURANCE PRODUCER OF RECORD IN**  
24 **CONNECTION WITH THE CARRIER'S NONGROUP PLAN; OR**

25                   **(II) AN INDIVIDUAL WHO:**

26                                   **1. INITIATES CONTACT WITH THE CAPTIVE**  
27 **PRODUCER OR THE CARRIER FOR THE PURPOSE OF REQUESTING ASSISTANCE**  
28 **OR INQUIRING ABOUT THE CARRIER'S PLANS; AND**

29                                   **2. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
30 **SUBSECTION, DOES NOT ACKNOWLEDGE HAVING AN INSURANCE PRODUCER IN**  
31 **CONNECTION WITH ANY EXISTING INSURANCE COVERAGE.**

32                   **(2) (I) IF AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS**  
33 **SUBSECTION HAS AN INSURANCE PRODUCER, A CAPTIVE PRODUCER SHALL**

1 REFER THE INDIVIDUAL BACK TO THE INSURANCE PRODUCER, TOGETHER WITH  
2 ANY AVAILABLE CONTACT INFORMATION, FOR INFORMATION AND SERVICES,  
3 UNLESS:

4 1. THE INDIVIDUAL IS ELIGIBLE FOR, BUT HAS NOT  
5 OBTAINED A FEDERAL PREMIUM SUBSIDY AND COST-SHARING ASSISTANCE,  
6 AND THE INSURANCE PRODUCER IS NOT AUTHORIZED TO SELL QUALIFIED  
7 PLANS IN THE INDIVIDUAL EXCHANGE; OR

8 2. THE INDIVIDUAL WOULD PREFER NOT TO SEEK  
9 FURTHER ASSISTANCE FROM THE INDIVIDUAL'S INSURANCE PRODUCER.

10 (II) IF A CAPTIVE PRODUCER IS NOT AWARE OF AN  
11 INSURANCE PRODUCER OF RECORD, THE CAPTIVE PRODUCER SHALL DISCLOSE  
12 TO AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THERE  
13 MAY BE AN INSURANCE PRODUCER OF RECORD IN CONNECTION WITH AN  
14 EXISTING POLICY.

15 (3) (I) A CARRIER AND ITS CAPTIVE PRODUCERS, IN OFFERING  
16 INFORMATION AND ASSISTANCE TO THE CARRIER'S CURRENT ENROLLEES  
17 REGARDING QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE:

18 1. SHALL COMPLY WITH FAIR MARKETING  
19 STANDARDS DEVELOPED JOINTLY BY THE EXCHANGE AND THE COMMISSIONER;

20 2. MAY NOT EMPLOY MARKETING PRACTICES OR  
21 OFFER INFORMATION AND ASSISTANCE ONLY TO CERTAIN ENROLLEES IN A  
22 MANNER THAT WILL HAVE THE EFFECT OF ENROLLING A DISPROPORTIONATE  
23 NUMBER OF THE CARRIER'S ENROLLEES WITH SIGNIFICANT HEALTH NEEDS IN  
24 QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE; AND

25 3. SHALL ACT IN THE BEST INTEREST OF THE  
26 INDIVIDUAL TO WHOM THE CARRIER AND ITS CAPTIVE PRODUCERS PROVIDE  
27 ASSISTANCE.

28 (II) A CARRIER SHALL PROVIDE TO THE EXCHANGE, AND  
29 UPDATE AS NEEDED, A LIST OF ITS CURRENT CAPTIVE PRODUCERS.

30 (4) BEFORE PROVIDING AN INDIVIDUAL UNDER PARAGRAPH (1)  
31 OF THIS SUBSECTION ANY INFORMATION OR ASSISTANCE WITH RESPECT TO  
32 QUALIFIED PLANS OFFERED IN THE INDIVIDUAL EXCHANGE, A CAPTIVE  
33 PRODUCER IN A MANNER PRESCRIBED UNDER FAIR MARKETING STANDARDS  
34 ESTABLISHED BY THE COMMISSIONER AND THE EXCHANGE, SHALL:



1                   **(I) DISCLOSE TO THE INDIVIDUAL THAT:**

2                   **1. THE CAPTIVE PRODUCER IS EMPLOYED BY THE**  
3 **CARRIER AND ABLE TO PROVIDE INFORMATION ABOUT AND SELL ONLY**  
4 **QUALIFIED PLANS OFFERED BY THE CARRIER; AND**

5                   **2. THE INDIVIDUAL EXCHANGE OFFERS OTHER**  
6 **QUALIFIED PLANS, SOLD BY OTHER CARRIERS, THAT MAY MEET THE**  
7 **INDIVIDUAL'S NEEDS;**

8                   **(II) ON THE INDIVIDUAL'S REQUEST:**

9                   **1. REFER THE INDIVIDUAL FOR FURTHER**  
10 **ASSISTANCE TO AN INDEPENDENT INSURANCE PRODUCER, THE APPROPRIATE**  
11 **INDIVIDUAL EXCHANGE CONNECTOR ENTITY, OR THE CONSOLIDATED**  
12 **SERVICES CENTER; AND**

13                   **2. PROVIDE, THROUGH MAIL OR ELECTRONIC**  
14 **COMMUNICATION, WRITTEN INFORMATION ABOUT THE INDIVIDUAL EXCHANGE,**  
15 **THE CONNECTOR PROGRAM, AND THE CONSOLIDATED SERVICES CENTER; AND**

16                   **(III) DOCUMENT THAT THE CAPTIVE PRODUCER HAS**  
17 **PROVIDED THE REQUIRED DISCLOSURES AND THE INDIVIDUAL HAS**  
18 **ACKNOWLEDGED THAT THE INDIVIDUAL:**

19                   **1. UNDERSTANDS THE DISCLOSURES;**

20                   **2. DOES NOT WANT TO BE REFERRED TO AN**  
21 **INDEPENDENT INSURANCE PRODUCER, AN INDIVIDUAL EXCHANGE CONNECTOR**  
22 **ENTITY, OR THE CONSOLIDATED SERVICES CENTER; AND**

23                   **3. WANTS TO RECEIVE INFORMATION AND**  
24 **ASSISTANCE FROM THE CAPTIVE PRODUCER.**

25                   **(5) A RECORD OF THE DOCUMENTATION REQUIRED UNDER**  
26 **PARAGRAPH (4)(III) OF THIS SUBSECTION SHALL BE:**

27                   **(I) RETAINED BY A CAPTIVE PRODUCER FOR AT LEAST 3**  
28 **YEARS;**

29                   **(II) SUBJECT TO THE COMMISSIONER'S REVIEW IN A**  
30 **MARKET CONDUCT EXAMINATION; AND**

31                   **(III) PROVIDED TO THE EXCHANGE ON A QUARTERLY BASIS.**

1           **(6) WITH RESPECT TO ANY HEALTH BENEFIT PLANS OR OTHER**  
2 **PRODUCTS OFFERED IN THE INDIVIDUAL EXCHANGE OR THE INSURANCE**  
3 **MARKET OUTSIDE THE INDIVIDUAL EXCHANGE BY CARRIERS OTHER THAN THE**  
4 **CARRIER WITH WHICH THE CAPTIVE PRODUCER HAS AN EXCLUSIVE**  
5 **APPOINTMENT, A CAPTIVE PRODUCER:**

6           **(I) MAY NOT PROVIDE ANY INFORMATION OR SERVICES**  
7 **RELATED TO HEALTH BENEFIT PLANS OR OTHER PRODUCTS NOT OFFERED BY**  
8 **THE CAPTIVE PRODUCER'S CARRIER; AND**

9           **(II) SHALL REFER ANY INQUIRIES ABOUT HEALTH BENEFIT**  
10 **PLANS OR OTHER PRODUCTS NOT OFFERED BY THE CAPTIVE PRODUCER'S**  
11 **CARRIER TO:**

12                           **1. ANY RESOURCES THAT MAY BE MAINTAINED BY**  
13 **THE EXCHANGE; OR**

14                           **2. A LICENSED INDEPENDENT INSURANCE**  
15 **PRODUCER.**

16           **(7) IF A CARRIER OR A CAPTIVE PRODUCER FAILS TO COMPLY**  
17 **WITH THE REQUIREMENTS OF THIS SUBSECTION, THE EXCHANGE MAY:**

18           **(I) SUSPEND, REVOKE, OR REFUSE TO RENEW THE CAPTIVE**  
19 **PRODUCER'S AUTHORIZATION UNDER SUBSECTION (M)(3) OF THIS SECTION;**  
20 **AND**

21           **(II) IMPOSE SANCTIONS AGAINST THE CARRIER UNDER §**  
22 **31-115(K) OF THIS TITLE.**

23           **[(p)] (Q) Nothing in this section shall prohibit a community-based**  
24 **organization or a unit of State or local government from providing the consumer**  
25 **assistance services described in subsection (c) of this section that are not required to**  
26 **be provided by an Individual Exchange navigator, if the entity providing the services**  
27 **and its employees do not:**

28                           **(1) receive any compensation, directly or indirectly, from a carrier, an**  
29 **insurance producer, or a third-party administrator in connection with the enrollment**  
30 **of a qualified individual in a qualified health plan;**

31                           **(2) receive any compensation, directly or indirectly, from a managed**  
32 **care organization that participates in the Maryland Medical Assistance Program or**  
33 **the Maryland Children's Health Program; and**

1           (3) identify themselves to the public as an Individual Exchange  
2 [navigator] CONNECTOR entities or Individual Exchange navigators.

3           **(R) (1) TO THE EXTENT AND IN THE MANNER PERMITTED OR**  
4 **REQUIRED BY FEDERAL LAW OR REGULATION GOVERNING APPLICATION**  
5 **COUNSELORS AND OTHER EXCHANGE CONSUMER ASSISTANCE PERSONNEL,**  
6 **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AND DEPENDING ON ITS**  
7 **NEEDS AND RESOURCES, THE EXCHANGE MAY:**

8                   **(I) DESIGNATE AS AN APPLICATION COUNSELOR**  
9 **SPONSORING ENTITY UNDER THIS SUBSECTION A COMMUNITY-BASED**  
10 **ORGANIZATION, HEALTH CARE PROVIDER, UNIT OF STATE OR LOCAL**  
11 **GOVERNMENT, OR OTHER ENTITY; AND**

12                   **(II) CERTIFY AS AN APPLICATION COUNSELOR ANY AGENT,**  
13 **EMPLOYEE, OR VOLUNTEER OF AN APPLICATION COUNSELOR SPONSORING**  
14 **ENTITY WHO MEETS THE REQUIREMENTS FOR INDIVIDUAL EXCHANGE**  
15 **NAVIGATOR CERTIFICATION UNDER THIS SECTION.**

16           **(2) AN APPLICATION COUNSELOR SPONSORING ENTITY AND AN**  
17 **APPLICATION COUNSELOR AUTHORIZED TO PROVIDE SERVICES UNDER THIS**  
18 **SUBSECTION:**

19                   **(I) MAY NOT BE COMPENSATED BY THE EXCHANGE;**

20                   **(II) MAY NOT IMPOSE A FEE ON INDIVIDUALS TO WHOM**  
21 **THEY ARE AUTHORIZED TO PROVIDE SERVICES UNDER THIS SECTION FOR THE**  
22 **SERVICES;**

23                   **(III) SHALL DISCLOSE TO THE EXCHANGE AND TO**  
24 **INDIVIDUALS TO WHOM THEY PROVIDE SERVICES ANY RELATIONSHIPS THEY**  
25 **HAVE WITH:**

26                           **1. A CARRIER, AN INSURANCE PRODUCER, OR A**  
27 **THIRD-PARTY ADMINISTRATOR; OR**

28                           **2. A MANAGED CARE ORGANIZATION THAT**  
29 **PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE**  
30 **MARYLAND CHILDREN'S HEALTH PROGRAM; AND**

31                   **(IV) SHALL ACT IN THE BEST INTEREST OF THE INDIVIDUALS**  
32 **FOR WHOM THEY ARE AUTHORIZED TO PROVIDE SERVICES; AND**

1                    (V) MAY NOT BE COMPENSATED BY A CARRIER, INSURANCE  
2 PRODUCER, OR THIRD-PARTY ADMINISTRATOR FOR THEIR ENROLLMENT  
3 SERVICES.

4                    (3) AN APPLICATION COUNSELOR IS SUBJECT TO ALL  
5 REQUIREMENTS, RESTRICTIONS, CONFLICT OF INTEREST RULES, AND  
6 OVERSIGHT APPLICABLE TO:

7                    (I) INDIVIDUAL EXCHANGE CONNECTOR ENTITIES AND  
8 INDIVIDUAL EXCHANGE NAVIGATORS UNDER THIS SUBSECTION AND ANY  
9 OTHER RELEVANT STATE OR FEDERAL LAWS; AND

10                    (II) APPLICATION COUNSELORS UNDER FEDERAL LAW OR  
11 REGULATION.

12                    (4) THE EXCHANGE, IN CONSULTATION WITH THE  
13 COMMISSIONER AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,  
14 MAY:

15                    (I) ESTABLISH REQUIREMENTS FOR A SPONSORING  
16 ENTITY; AND

17                    (II) ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

18 31-113.1.

19                    (A) IN ACCORDANCE WITH THE REQUIREMENT TO OPERATE A  
20 TOLL-FREE HOTLINE UNDER § 1311(D)(4) OF THE AFFORDABLE CARE ACT AND  
21 § 31-108(B)(5) OF THIS TITLE, THE EXCHANGE MAY ESTABLISH A  
22 CONSOLIDATED SERVICES CENTER.

23                    (B) (1) THE CSC MAY EMPLOY INDIVIDUALS TO ASSIST THE SHOP  
24 EXCHANGE.

25                    (2) A CSC EMPLOYEE AUTHORIZED TO ASSIST THE SHOP  
26 EXCHANGE:

27                    (I) MAY PROVIDE THE SERVICES SET FORTH IN §  
28 31-112(C)(1) OF THIS TITLE, BUT MAY NOT INITIATE CONTACT WITH A SMALL  
29 EMPLOYER FOR THE PURPOSE OF SOLICITING THE SMALL EMPLOYER TO  
30 PROVIDE QUALIFIED PLANS OFFERED BY THE SHOP EXCHANGE TO ITS  
31 EMPLOYEES;

1                   **(II) SHALL HOLD A SHOP EXCHANGE ENROLLMENT**  
2 **PERMIT;**

3                   **(III) IS NOT A SHOP EXCHANGE NAVIGATOR AND MAY NOT**  
4 **HOLD A SHOP EXCHANGE NAVIGATOR LICENSE;**

5                   **(IV) MAY NOT BE REQUIRED TO HOLD AN INSURANCE**  
6 **PRODUCER LICENSE; AND**

7                   **(V) SHALL COMPLY WITH THE LIMITATIONS SET FORTH IN §**  
8 **31-112(C)(3) OF THIS TITLE.**

9                   **(3) (I) THE COMMISSIONER SHALL ISSUE A SHOP EXCHANGE**  
10 **ENROLLMENT PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS**  
11 **OF THIS PARAGRAPH.**

12                   **(II) TO QUALIFY FOR A SHOP EXCHANGE ENROLLMENT**  
13 **PERMIT, AN APPLICANT:**

14                               **1. SHALL BE OF GOOD CHARACTER AND**  
15 **TRUSTWORTHY;**

16                               **2. SHALL BE AT LEAST 18 YEARS OLD;**

17                               **3. SHALL PASS THE WRITTEN EXAMINATION GIVEN**  
18 **BY THE COMMISSIONER TO APPLICANTS FOR A SHOP NAVIGATOR LICENSE**  
19 **UNDER § 31-112(D)(2)(III) OF THIS TITLE;**

20                               **4. SHALL BE ENGAGED BY, AND RECEIVE**  
21 **COMPENSATION ONLY THROUGH, THE CSC;**

22                               **5. MAY NOT RECEIVE COMPENSATION FROM OR**  
23 **OTHERWISE BE AFFILIATED WITH A CARRIER, AN INSURANCE PRODUCER, A**  
24 **THIRD-PARTY ADMINISTRATOR, OR ANY OTHER PERSON CONNECTED TO THE**  
25 **INSURANCE INDUSTRY; AND**

26                               **6. SHALL COMPLETE, AND COMPLY WITH ANY**  
27 **ONGOING REQUIREMENTS OF, THE TRAINING PROGRAM ESTABLISHED UNDER §**  
28 **31-112(H) OF THIS TITLE.**

29                   **(4) THE COMMISSIONER'S DUTIES AND AUTHORITY UNDER §**  
30 **31-112(D)(3) AND (E) OF THIS TITLE SHALL APPLY TO CSC EMPLOYEES WHO**  
31 **HOLD A SHOP EXCHANGE ENROLLMENT PERMIT ISSUED UNDER THIS**  
32 **SUBSECTION.**

1           (c) (1) THE CSC MAY EMPLOY INDIVIDUALS TO ASSIST THE  
2 INDIVIDUAL EXCHANGE.

3                   (2) A CSC EMPLOYEE AUTHORIZED TO ASSIST THE INDIVIDUAL  
4 EXCHANGE:

5                           (I) MAY PROVIDE THE SERVICES SET FORTH IN § 31-113(D)  
6 OF THIS TITLE, BUT MAY NOT INITIATE CONTACT WITH AN INDIVIDUAL FOR THE  
7 PURPOSE OF SOLICITING THE INDIVIDUAL TO ENROLL IN A QUALIFIED PLAN  
8 OFFERED BY THE INDIVIDUAL EXCHANGE;

9                           (II) SHALL HOLD AN INDIVIDUAL EXCHANGE ENROLLMENT  
10 PERMIT;

11                           (III) IS NOT AN INDIVIDUAL EXCHANGE NAVIGATOR AND  
12 MAY NOT HOLD AN INDIVIDUAL EXCHANGE NAVIGATOR CERTIFICATION;

13                           (IV) MAY NOT BE REQUIRED TO HOLD AN INSURANCE  
14 PRODUCER OR ADVISER LICENSE;

15                           (V) WITH RESPECT TO THE INSURANCE MARKET OUTSIDE  
16 THE EXCHANGE, SHALL COMPLY WITH § 31-113(F)(8) OF THIS TITLE; ~~AND~~

17                           (VI) SHALL INQUIRE WHETHER AN INDIVIDUAL HAS HEALTH  
18 INSURANCE OBTAINED THROUGH AN INSURANCE PRODUCER AND, IF SO, SHALL  
19 REFER THE INDIVIDUAL TO THE INSURANCE PRODUCER FOR INFORMATION AND  
20 SERVICES UNLESS:

21                                   1. THE INDIVIDUAL IS ELIGIBLE FOR, BUT HAS NOT  
22 OBTAINED A FEDERAL PREMIUM SUBSIDY AND COST-SHARING ASSISTANCE,  
23 AND THE INSURANCE PRODUCER IS NOT AUTHORIZED TO SELL QUALIFIED  
24 PLANS IN THE INDIVIDUAL EXCHANGE; OR

25                                   2. THE INDIVIDUAL WOULD PREFER NOT TO SEEK  
26 FURTHER ASSISTANCE FROM THE INDIVIDUAL'S INSURANCE PRODUCER; AND

27                           (VII) SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS,  
28 REGULATIONS, AND POLICIES GOVERNING THE MARYLAND MEDICAL  
29 ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM.

30                   (3) (I) THE EXCHANGE SHALL ISSUE AN INDIVIDUAL  
31 EXCHANGE ENROLLMENT PERMIT TO EACH APPLICANT WHO MEETS THE  
32 REQUIREMENTS OF THIS PARAGRAPH.

1                   **(II) TO QUALIFY FOR AN INDIVIDUAL EXCHANGE**  
2 **ENROLLMENT PERMIT, AN APPLICANT:**

3                   **1. SHALL BE OF GOOD CHARACTER AND**  
4 **TRUSTWORTHY;**

5                   **2. SHALL BE AT LEAST 18 YEARS OLD;**

6                   **3. SHALL BE ENGAGED BY, AND RECEIVE**  
7 **COMPENSATION ONLY THROUGH, THE CSC;**

8                   **4. MAY NOT RECEIVE ANY COMPENSATION,**  
9 **DIRECTLY OR INDIRECTLY, FROM:**

10                   **A. A CARRIER, AN INSURANCE PRODUCER, OR A**  
11 **THIRD-PARTY ADMINISTRATOR IN CONNECTION WITH THE ENROLLMENT OF A**  
12 **QUALIFIED INDIVIDUAL IN A QUALIFIED HEALTH PLAN; OR**

13                   **B. A MANAGED CARE ORGANIZATION THAT**  
14 **PARTICIPATES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM IN**  
15 **CONNECTION WITH THE ENROLLMENT OF AN INDIVIDUAL IN THE MARYLAND**  
16 **MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH**  
17 **PROGRAM; AND**

18                   **5. SHALL COMPLETE, AND COMPLY WITH ANY**  
19 **ONGOING REQUIREMENTS OF, THE TRAINING PROGRAM ESTABLISHED UNDER §**  
20 **31-113(K) OF THIS TITLE.**

21                   **(4) THE COMMISSIONER'S DUTIES AND AUTHORITY UNDER §**  
22 **31-113(L) OF THIS TITLE SHALL APPLY TO CSC EMPLOYEES WHO HOLD AN**  
23 **INDIVIDUAL EXCHANGE ENROLLMENT PERMIT ISSUED UNDER THIS**  
24 **SUBSECTION.**

25                   **(D) THE EXCHANGE, THE CSC, AND CSC EMPLOYEES SHALL ASSIST**  
26 **THE HEALTH EDUCATION AND ADVOCACY UNIT OF THE OFFICE OF THE**  
27 **ATTORNEY GENERAL IN CARRYING OUT ITS DUTIES TO ASSIST CONSUMERS**  
28 **UNDER TITLE 13, SUBTITLE 4A OF THE COMMERCIAL LAW ARTICLE AND TITLE**  
29 **15, SUBTITLES 10A AND 10D OF THIS ARTICLE.**

30 31-114.

31                   (a) Nothing in this title requires the Maryland Medical Assistance Program  
32 or the Maryland Children's Health Program to provide any specific financial support

1 to the Individual Exchange for the services provided by an Individual Exchange  
 2 navigator or an Individual Exchange [navigator] CONNECTOR entity.

3 31–115.

4 (b) To be certified as a qualified health plan, a health benefit plan shall:

5 (1) except as provided in subsection (c) of this section, provide the  
 6 essential health benefits required under § 1302(a) of the Affordable Care Act and §  
 7 31–116 of this title;

8 (2) obtain prior approval of premium rates and contract language from  
 9 the Commissioner;

10 (3) except as provided in subsection ~~(d)~~ **(E)** of this section, provide at  
 11 least a bronze level of coverage, as defined in the Affordable Care Act and determined  
 12 by the Exchange under § 31–108(b)(8)(ii) of this title;

13 (4) (i) ensure that its cost-sharing requirements do not exceed the  
 14 limits established under § 1302(c)(1) of the Affordable Care Act; and

15 (ii) if the health benefit plan is offered through the SHOP  
 16 Exchange, ensure that the health benefit plan's deductible does not exceed the limits  
 17 established under § 1302(c)(2) of the Affordable Care Act;

18 (5) be offered by a carrier that:

19 (i) is licensed and in good standing to offer health insurance  
 20 coverage in the State;

21 **(II) OFFERS IN EACH EXCHANGE, THE INDIVIDUAL AND THE**  
 22 **SHOP, IN WHICH THE CARRIER PARTICIPATES, AT LEAST ONE QUALIFIED**  
 23 **HEALTH PLAN:**

24 **1. AT A BRONZE LEVEL OF COVERAGE;**

25 **2. AT A SILVER LEVEL OF COVERAGE; AND**

26 **3. AT A GOLD LEVEL OF COVERAGE;**

27 ~~(iii)~~ **(III)** if the carrier participates in the Individual  
 28 [Exchange's individual market] **EXCHANGE AND OFFERS ANY HEALTH BENEFIT**  
 29 **PLAN IN THE INDIVIDUAL MARKET OUTSIDE THE EXCHANGE**, offers at least one  
 30 qualified health plan at the silver level and one at the gold level in the individual  
 31 market outside the Exchange;



1                   ~~(iii)~~ **(IV)**     if the carrier participates in the SHOP Exchange AND  
2 **OFFERS ANY HEALTH BENEFIT PLAN IN THE SMALL GROUP MARKET OUTSIDE**  
3 **THE SHOP EXCHANGE**, offers at least one qualified health plan at the silver level  
4 and one at the gold level in the small group market outside the SHOP Exchange;

5                   ~~(iv)~~ **(V)**     charges the same premium rate for each qualified  
6 health plan regardless of whether the qualified health plan is offered through the  
7 Exchange, through an insurance producer outside the Exchange, or directly from a  
8 carrier;

9                   ~~(v)~~ **(VI)**     does not charge any cancellation fees or penalties in  
10 violation of § 31–108(c) of this title; and

11                   ~~(vi)~~ **(VII)**    complies with the regulations adopted by the  
12 Secretary under § 1311(d) of the Affordable Care Act and by the Exchange under §  
13 31–106(c)(1)(iv) of this title;

14                   (6)     meet the requirements for certification established under the  
15 regulations adopted by:

16                   (i)     the Secretary under § 1311(c)(1) of the Affordable Care Act,  
17 including minimum standards for marketing practices, network adequacy, essential  
18 community providers in underserved areas, accreditation, quality improvement,  
19 uniform enrollment forms and descriptions of coverage, and information on quality  
20 measures for health plan performance; and

21                   (ii)    the Exchange under § 31–106(c)(1)(iv) of this title;

22                   (7)     be in the interest of qualified individuals and qualified employers,  
23 as determined by the Exchange;

24                   (8)     provide any other benefits as may be required by the  
25 Commissioner under any applicable State law or regulation; and

26                   (9)     meet any other requirements established by the Exchange under  
27 this title, including:

28                   (i)     transition of care language in contracts as determined  
29 appropriate by the Exchange to ensure care continuity and reduce duplication and  
30 costs of care;

31                   (ii)    criteria that encourage and support qualified plans in  
32 facilitating cross-border enrollment; and

33                   (iii)   demonstrating compliance with the federal Mental Health  
34 Parity and Addiction Equity Act of 2008.



1 1. the essential pediatric dental benefits required by the  
 2 Secretary under § 1302(b)(1)(j) of the Affordable Care Act; and

3 2. other dental benefits required by the Secretary or the  
 4 Exchange.

5 (4) (i) The Exchange may determine:

6 1. the manner in which carriers must disclose the price  
 7 of oral and dental benefits and, to the extent relevant, medical benefits, when offered:

8 A. to the extent permitted by the Exchange, in a  
 9 qualified health plan;

10 B. in conjunction with or as an endorsement to a  
 11 qualified health plan; or

12 C. as a stand-alone plan; and

13 2. when a carrier offers a qualified dental plan in  
 14 conjunction with a qualified health plan, whether the carrier also must make the  
 15 qualified health plan, the qualified dental plan, or both qualified plans available on a  
 16 stand-alone basis.

17 (ii) In determining the manner in which carriers must offer and  
 18 disclose the price of medical, oral, and dental benefits under this paragraph, the  
 19 Exchange shall balance the objectives of transparency and affordability for consumers.

20 (5) The Exchange may:

21 (i) exempt qualified dental plans from a requirement applicable  
 22 to qualified health plans under this title to the extent the Exchange determines the  
 23 requirement is not relevant to qualified dental plans; and

24 (ii) establish additional requirements for qualified dental plans  
 25 in conjunction with its establishment of additional requirements for qualified health  
 26 plans under subsection (b)(9) of this section.

27 **(6) THE EXCHANGE MAY REQUIRE CHILDREN ENROLLING IN A**  
 28 **QUALIFIED HEALTH PLAN TO HAVE THE ESSENTIAL PEDIATRIC DENTAL**  
 29 **BENEFITS REQUIRED BY THE SECRETARY UNDER § 1302(B)(1)(J) OF THE**  
 30 **AFFORDABLE CARE ACT, WHETHER OFFERED:**

31 **(I) IN THE QUALIFIED HEALTH PLAN;**

1                    **(II) IN CONJUNCTION WITH OR AS AN ENDORSEMENT TO**  
 2 **THE QUALIFIED HEALTH PLAN; OR**

3                    **(III) AS A STAND-ALONE DENTAL PLAN.**

4            (i)    (3)    A qualified vision plan shall:

5                    (i) be limited to vision and eye health benefits, without  
 6 substantial duplication of other benefits typically offered by health benefit plans  
 7 without vision coverage; and

8                    (ii) include at a minimum:

9                    1. the essential pediatric vision benefits required by the  
 10 Secretary under § 1302(b)(1)(j) of the Affordable Care Act; [and] OR

11                    2. other vision benefits required by the Secretary or the  
 12 Exchange.

13            **(K) (1) SUBJECT TO THE CONTESTED CASE HEARING PROVISIONS OF**  
 14 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, AND**  
 15 **SUBSECTION (F) OF THIS SECTION, THE EXCHANGE MAY DENY CERTIFICATION**  
 16 **TO A HEALTH BENEFIT PLAN, A DENTAL PLAN, OR A VISION PLAN, OR SUSPEND**  
 17 **OR REVOKE THE CERTIFICATION OF A QUALIFIED PLAN, BASED ON A FINDING**  
 18 **THAT THE HEALTH BENEFIT PLAN, DENTAL PLAN, VISION PLAN, OR QUALIFIED**  
 19 **PLAN DOES NOT SATISFY REQUIREMENTS OR ~~MEET~~ HAS OTHERWISE VIOLATED**  
 20 **STANDARDS FOR CERTIFICATION THAT ARE:**

21                    **(I) ESTABLISHED UNDER THE REGULATIONS AND INTERIM**  
 22 **POLICIES ADOPTED BY THE EXCHANGE TO CARRY OUT THIS TITLE; AND**

23                    **(II) NOT OTHERWISE UNDER THE REGULATORY AND**  
 24 **ENFORCEMENT AUTHORITY OF THE COMMISSIONER.**

25                    **(2) CERTIFICATION REQUIREMENTS ~~MAY~~ SHALL INCLUDE**  
 26 **PROVIDING DATA AND MEETING STANDARDS RELATED TO:**

27                    **(I) ENROLLMENT;**

28                    **(II) ESSENTIAL COMMUNITY PROVIDERS;**

29                    **(III) COMPLAINTS AND GRIEVANCES INVOLVING THE**  
 30 **EXCHANGE;**

31                    **(IV) NETWORK ADEQUACY;**

- 1 (V) QUALITY;
- 2 (VI) TRANSPARENCY;
- 3 (VII) RACE, ETHNICITY, LANGUAGE, INTERPRETER NEED,  
4 AND CULTURAL COMPETENCY (RELICC);
- 5 (VIII) PLAN SERVICE AREA, INCLUDING DEMOGRAPHICS;
- 6 (IX) ACCREDITATION; AND
- 7 (X) COMPLYING WITH FAIR MARKETING STANDARDS  
8 DEVELOPED JOINTLY BY THE EXCHANGE AND THE COMMISSIONER.

9 (3) INSTEAD OF OR IN ADDITION TO DENYING, SUSPENDING, OR  
10 REVOKING CERTIFICATION, THE EXCHANGE MAY IMPOSE OTHER REMEDIES OR  
11 TAKE OTHER ACTIONS, INCLUDING:

12 (I) TAKING CORRECTIVE ACTION TO REMEDY A VIOLATION  
13 OF OR FAILURE TO COMPLY WITH STANDARDS FOR CERTIFICATION; AND

14 (II) IMPOSING A PENALTY NOT EXCEEDING ~~\$100~~ \$5,000 FOR  
15 EACH VIOLATION OF OR FAILURE TO COMPLY WITH STANDARDS FOR  
16 CERTIFICATION.

17 (4) IN DETERMINING THE AMOUNT OF A PENALTY UNDER  
18 PARAGRAPH (3)(II) OF THIS SUBSECTION, THE EXCHANGE SHALL CONSIDER:

19 (I) THE TYPE, SEVERITY, AND DURATION OF THE  
20 VIOLATION;

21 (II) WHETHER THE PLAN OR CARRIER KNEW OR SHOULD  
22 HAVE KNOWN OF THE VIOLATION;

23 (III) THE EXTENT TO WHICH THE PLAN OR CARRIER HAVE A  
24 HISTORY OF VIOLATIONS; AND

25 (IV) WHETHER THE PLAN OR CARRIER CORRECTED THE  
26 VIOLATION AS SOON AS THEY KNEW OR SHOULD HAVE KNOWN OF THE  
27 VIOLATION.

28 (5) THE PENALTIES AVAILABLE TO THE EXCHANGE UNDER THIS  
29 SUBSECTION SHALL BE IN ADDITION TO ANY CRIMINAL OR CIVIL PENALTIES

1 IMPOSED FOR FRAUD OR OTHER VIOLATION UNDER ANY OTHER STATE OR  
2 FEDERAL LAW.

3 (6) (I) A CARRIER OR PLAN, UNDER TITLE 10, SUBTITLE 2 OF  
4 THE STATE GOVERNMENT ARTICLE AND THE EXCHANGE'S APPEALS AND  
5 GRIEVANCE PROCESS MAY:

6 1. APPEAL AN ORDER OR DECISION ISSUED BY THE  
7 EXCHANGE UNDER THIS SECTION; AND

8 2. REQUEST A HEARING.

9 (II) A DEMAND FOR A HEARING STAYS A DECISION OR  
10 ORDER OF THE EXCHANGE PENDING THE HEARING, AND A FINAL ORDER OF THE  
11 EXCHANGE RESULTING FROM IT, IF THE EXCHANGE RECEIVES THE DEMAND:

12 1. BEFORE THE EFFECTIVE DATE OF THE ORDER; OR

13 2. WITHIN 10 DAYS AFTER THE ORDER IS SERVED.

14 (III) IF A PETITION FOR JUDICIAL REVIEW IS FILED WITH  
15 THE APPROPRIATE COURT UNDER TITLE 10, SUBTITLE 2 OF THE STATE  
16 GOVERNMENT ARTICLE, THE COURT HAS JURISDICTION OVER THE CASE AND  
17 SHALL DETERMINE WHETHER THE FILING OPERATES AS A STAY OF THE ORDER  
18 FROM WHICH THE APPEAL IS TAKEN.

19 31-116.

20 (a) The essential health benefits required under § 1302(a) of the Affordable  
21 Care Act:

22 (1) shall be the benefits in the State benchmark plan, selected in  
23 accordance with this section; and

24 (2) notwithstanding any other benefits mandated by State law, shall  
25 be the benefits required in:

26 (i) all individual health benefit plans and health benefit plans  
27 offered to small employers, except for grandfathered health plans, as defined in the  
28 Affordable Care Act, offered outside the Exchange; and

29 (ii) subject to § 31-115(c) [and (d)] of this title, all qualified  
30 health plans offered in the Exchange.

31 31-117.

1 (a) The Exchange, with the approval of the Commissioner, shall implement  
2 or oversee the implementation of the state-specific requirements of §§ 1341 and 1343  
3 of the Affordable Care Act relating to transitional reinsurance and risk adjustment.

4 (b) The Exchange may not assume responsibility for the program corridors  
5 for health benefit plans in the Individual Exchange and the SHOP Exchange  
6 established under § 1342 of the Affordable Care Act.

7 (c) (1) In compliance with § 1341 of the Affordable Care Act, the  
8 Exchange, in consultation with the Maryland Health Care Commission and with the  
9 approval of the Commissioner, shall operate or oversee the operation of a transitional  
10 reinsurance program in accordance with regulations adopted by the Secretary for  
11 coverage years 2014 through 2016.

12 (2) As required by the Affordable Care Act and regulations adopted by  
13 the Secretary, the transitional reinsurance program shall be designed to protect  
14 carriers that offer individual health benefit plans inside and outside the Exchange  
15 against excessive health care expenses incurred by high-risk individuals.

16 **(3) (I) THE EXCHANGE, IN CONSULTATION WITH THE**  
17 **MARYLAND HEALTH CARE COMMISSION AND WITH THE APPROVAL OF THE**  
18 **COMMISSIONER, MAY ESTABLISH A STATE REINSURANCE PROGRAM TO TAKE**  
19 **EFFECT ON OR AFTER JANUARY 1, ~~2015~~ 2014.**

20 **(II) THE PURPOSE OF THE STATE REINSURANCE PROGRAM**  
21 **IS TO MITIGATE THE IMPACT OF HIGH-RISK INDIVIDUALS ON RATES IN THE**  
22 **INDIVIDUAL INSURANCE MARKET INSIDE AND OUTSIDE THE EXCHANGE.**

23 **(III) WITH THE APPROVAL OF AND IN COLLABORATION WITH**  
24 **THE BOARD OF THE MARYLAND HEALTH INSURANCE PLAN, THE EXCHANGE**  
25 **MAY USE REVENUE RECEIVED FROM THE MARYLAND HEALTH INSURANCE**  
26 **PLAN FUND UNDER § 14-504(D) OF THIS ARTICLE TO FUND THE STATE**  
27 **REINSURANCE PROGRAM.**

28 (d) (1) In compliance with § 1343 of the Affordable Care Act, the  
29 Exchange, with the approval of the Commissioner, shall operate or oversee the  
30 operation of a risk adjustment program designed to:

31 (i) reduce the incentive for carriers to manage their risk by  
32 seeking to enroll individuals with a lower than average health risk;

33 (ii) increase the incentive for carriers to enhance the quality and  
34 cost-effectiveness of their enrollees' health care services; and

1 (iii) require appropriate adjustments among all health benefit  
2 plans in the individual and small group markets inside and outside the Exchange to  
3 compensate for the enrollment of high-risk individuals.

4 (2) Beginning in 2014, the Exchange, with the approval of the  
5 Commissioner, shall strongly consider using the federal model adopted by the  
6 Secretary in the operation of the State's risk adjustment program.

7 31-119.

8 (a) The Exchange shall be administered in a manner designed to:

9 (1) prevent discrimination ON THE BASIS OF RACE, COLOR,  
10 NATIONAL ORIGIN, DISABILITY, AGE, SEX, GENDER IDENTITY, OR SEXUAL  
11 ORIENTATION;

12 (2) streamline enrollment and other processes to minimize expenses  
13 and achieve maximum efficiency;

14 (3) prevent waste, fraud, and abuse; and

15 (4) promote financial integrity.

16 (d) (1) On or before December 1 of each year, the Board shall forward to  
17 the Secretary, the Governor, and, in accordance with § 2-1246 of the State  
18 Government Article, the General Assembly, a report on the activities, expenditures,  
19 and receipts of the Exchange.

20 (2) The report shall:

21 (i) be in the standardized format required by the Secretary;

22 (ii) include data regarding:

23 1. health plan participation, ratings, coverage, price,  
24 quality improvement measures, and benefits;

25 2. consumer choice, participation, and satisfaction  
26 information to the extent the information is available;

27 3. financial integrity, fee assessments, and status of the  
28 Fund; and

29 4. any other appropriate metrics related to the operation  
30 of the Exchange that may be used to evaluate Exchange performance, assure  
31 transparency, and facilitate research and analysis;



1 (iii) ASSESS AND, TO THE EXTENT FEASIBLE AND PERMITTED  
2 BY LAW, include data to identify disparities related to gender, race, ethnicity,  
3 geographic location, language, disability, GENDER IDENTITY, SEXUAL  
4 ORIENTATION, or other attributes of special populations; and

5 (iv) include information on its fraud, waste, and abuse detection  
6 and prevention program.

7 (e) (1) The Board shall cooperate fully with any investigation into the  
8 affairs of the Exchange, including making available for examination the records of the  
9 Exchange, conducted by:

10 [(1)] (I) the Secretary under the Secretary's authority under the  
11 Affordable Care Act; and

12 [(2)] (II) the Commissioner under the Commissioner's authority [to  
13 regulate the sale and purchase of insurance in the State] **UNDER THIS ARTICLE.**

14 **(2) THE COMMISSIONER MAY ADOPT REGULATIONS**  
15 **ESTABLISHING THE MINIMUM LENGTH OF TIME FOR WHICH, AND THE MANNER**  
16 **IN WHICH, THE EXCHANGE IS REQUIRED TO MAINTAIN RECORDS OF INSURANCE**  
17 **TRANSACTIONS CONDUCTED BY THE EXCHANGE.**

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

20 **Article – Insurance**

21 **15–140.**

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

24 (2) “ACUTE CONDITION” MEANS A MEDICAL OR DENTAL  
25 CONDITION THAT:

26 (I) INVOLVES A SUDDEN ONSET OF SYMPTOMS DUE TO AN  
27 ILLNESS, AN INJURY, OR ANY OTHER MEDICAL OR DENTAL PROBLEM THAT  
28 REQUIRES PROMPT MEDICAL ATTENTION; AND

29 (II) HAS A LIMITED DURATION.

30 (3) “CARRIER” MEANS:

31 (I) AN INSURER AUTHORIZED TO SELL HEALTH INSURANCE;

- 1                   (II) A NONPROFIT HEALTH SERVICE PLAN;
- 2                   (III) A HEALTH MAINTENANCE ORGANIZATION;
- 3                   (IV) A DENTAL PLAN ORGANIZATION; OR
- 4                   (V) ANY OTHER ENTITY PROVIDING A PLAN OF HEALTH
- 5 INSURANCE, HEALTH BENEFITS, OR HEALTH SERVICES AUTHORIZED UNDER
- 6 THIS ARTICLE OR THE AFFORDABLE CARE ACT.

7                   (4) “ENROLLEE” MEANS:

- 8                   (I) A PERSON ENTITLED TO HEALTH CARE BENEFITS FROM
- 9 A CARRIER; OR
- 10                  (II) A PROGRAM RECIPIENT WHO IS ENROLLED IN A
- 11 MANAGED CARE ORGANIZATION.

12                  (5) (I) “HEALTH BENEFIT PLAN” MEANS A POLICY, A

13 CONTRACT, A CERTIFICATE, OR AN AGREEMENT OFFERED, ISSUED, OR

14 DELIVERED BY A CARRIER TO AN INDIVIDUAL OR A GROUP IN THE STATE TO

15 PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE COSTS

16 OF HEALTH CARE SERVICES.

17                  (II) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:

- 18                               1. COVERAGE ONLY FOR ACCIDENT OR DISABILITY
- 19 INSURANCE OR ANY COMBINATION OF ACCIDENT AND DISABILITY INSURANCE;
- 20                               2. COVERAGE ISSUED AS A SUPPLEMENT TO
- 21 LIABILITY INSURANCE;
- 22                               3. LIABILITY INSURANCE, INCLUDING GENERAL
- 23 LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;
- 24                               4. WORKERS’ COMPENSATION OR SIMILAR
- 25 INSURANCE;
- 26                               5. AUTOMOBILE MEDICAL PAYMENT INSURANCE;
- 27                               6. CREDIT-ONLY INSURANCE;
- 28                               7. COVERAGE FOR ON-SITE MEDICAL CLINICS; OR

1                   8.   OTHER   SIMILAR   INSURANCE   COVERAGE,  
2 SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO THE FEDERAL  
3 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, UNDER WHICH  
4 BENEFITS FOR HEALTH CARE SERVICES ARE SECONDARY OR INCIDENTAL TO  
5 OTHER INSURANCE BENEFITS.

6                   (III) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE  
7 FOLLOWING BENEFITS IF THEY ARE PROVIDED UNDER A SEPARATE POLICY,  
8 CERTIFICATE, OR CONTRACT OF INSURANCE, OR ARE OTHERWISE NOT AN  
9 INTEGRAL PART OF THE PLAN:

10                   1.   LIMITED SCOPE ~~DENTAL OR~~ VISION BENEFITS;

11                   2.   BENEFITS FOR LONG-TERM CARE, NURSING HOME  
12 CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION  
13 OF THESE BENEFITS; OR

14                   3.   SUCH OTHER SIMILAR LIMITED BENEFITS AS ARE  
15 SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO THE FEDERAL  
16 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

17                   (IV) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE  
18 FOLLOWING BENEFITS IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE  
19 POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, THERE IS NO  
20 COORDINATION BETWEEN THE PROVISION OF THE BENEFITS AND ANY  
21 EXCLUSION OF BENEFITS UNDER ANY GROUP HEALTH PLAN MAINTAINED BY  
22 THE SAME PLAN SPONSOR, AND THE BENEFITS ARE PAID WITH RESPECT TO AN  
23 EVENT WITHOUT REGARD TO WHETHER THE BENEFITS ARE PROVIDED UNDER  
24 ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR:

25                   1.   COVERAGE ONLY FOR A SPECIFIED DISEASE OR  
26 ILLNESS; OR

27                   2.   HOSPITAL   INDEMNITY   OR   OTHER   FIXED  
28 INDEMNITY INSURANCE.

29                   (V) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE  
30 FOLLOWING IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT  
31 OF INSURANCE:

32                   1.   MEDICARE   SUPPLEMENTAL   INSURANCE   (AS  
33 DEFINED UNDER § 1882(G)(1) OF THE SOCIAL SECURITY ACT);

1                   2.     COVERAGE SUPPLEMENTAL TO THE COVERAGE  
2 PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE (CIVILIAN  
3 HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES  
4 (CHAMPUS)); OR

5                   3.     SIMILAR SUPPLEMENTAL COVERAGE PROVIDED  
6 TO COVERAGE UNDER A GROUP HEALTH PLAN.

7                   (6)    (I)     “HEALTH CARE PROVIDER” MEANS:

8                   ~~(H)~~ 1.     A HEALTH CARE PRACTITIONER OR GROUP OF  
9 HEALTH CARE PRACTITIONERS LICENSED, CERTIFIED, OR OTHERWISE  
10 AUTHORIZED TO ~~DELIVER~~ PROVIDE, IN THE ORDINARY COURSE OF BUSINESS OR  
11 PRACTICE OF A PROFESSION, HEALTH CARE SERVICES COVERED IN A HEALTH  
12 BENEFIT PLAN, THE MARYLAND MEDICAL ASSISTANCE PROGRAM, OR THE  
13 MARYLAND CHILDREN’S HEALTH PROGRAM; OR

14                   ~~(H)~~ 2.     A FACILITY WHERE HEALTH CARE IS PROVIDED TO  
15 PATIENTS OR RECIPIENTS, INCLUDING:

16                   A.     A HOSPITAL, AS DEFINED IN § 19-301 OF THE  
17 HEALTH – GENERAL ARTICLE;

18                   B.     A RELATED INSTITUTION AS DEFINED IN § 19-301  
19 OF THE HEALTH – GENERAL ARTICLE;

20                   C.     A FREESTANDING AMBULATORY CARE FACILITY  
21 AS DEFINED IN § 19-3B-01 OF THE HEALTH – GENERAL ARTICLE;

22                   D.     A FACILITY THAT IS ORGANIZED PRIMARILY TO  
23 HELP IN THE REHABILITATION OF PERSONS WITH DISABILITIES;

24                   E.     A HOME HEALTH AGENCY AS DEFINED IN § 19-901  
25 OF THE HEALTH – GENERAL ARTICLE;

26                   F.     A HOSPICE AS DEFINED IN § 19-901 OF THE  
27 HEALTH – GENERAL ARTICLE;

28                   G.     A FACILITY THAT PROVIDES RADIOLOGICAL OR  
29 OTHER DIAGNOSTIC IMAGERY SERVICES;

30                   H.     A MEDICAL LABORATORY AS DEFINED IN § 17-201  
31 OF THE HEALTH – GENERAL ARTICLE;

1 I. AN ALCOHOL ABUSE AND DRUG ABUSE  
2 TREATMENT PROGRAM AS DEFINED IN § 8-403 OF THE HEALTH – GENERAL  
3 ARTICLE; AND

4 J. A FEDERALLY QUALIFIED HEALTH CENTER.

5 (II) “HEALTH CARE PROVIDER” INCLUDES THE AGENTS,  
6 EMPLOYEES, OFFICERS, AND DIRECTORS OF A HEALTH CARE PROVIDER  
7 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

8 (7) “MANAGED CARE ORGANIZATION” MEANS:

9 (I) A CERTIFIED HEALTH MAINTENANCE ORGANIZATION  
10 THAT IS AUTHORIZED TO RECEIVE MEDICAL ASSISTANCE PREPAID CAPITATION  
11 PAYMENTS;

12 (II) A CORPORATION THAT:

13 1. IS A MANAGED CARE SYSTEM THAT IS  
14 AUTHORIZED TO RECEIVE MEDICAL ASSISTANCE PREPAID CAPITATION  
15 PAYMENTS;

16 2. ENROLLS ONLY PROGRAM RECIPIENTS OR  
17 INDIVIDUALS OR FAMILIES SERVED UNDER THE MARYLAND CHILDREN’S  
18 HEALTH PROGRAM; AND

19 3. IS SUBJECT TO THE REQUIREMENTS OF §  
20 15-102.4 OF THE HEALTH – GENERAL ARTICLE; OR

21 (III) A PREPAID DENTAL PLAN THAT RECEIVES FEES TO  
22 MANAGE DENTAL SERVICES.

23 (8) “NONPARTICIPATING PROVIDER” MEANS A HEALTH CARE  
24 PROVIDER WHO IS NOT ON THE PROVIDER PANEL OF A CARRIER OR MANAGED  
25 CARE ORGANIZATION.

26 (9) “PARTICIPATING PROVIDER” MEANS A HEALTH CARE  
27 PROVIDER WHO IS ON THE PROVIDER PANEL OF A CARRIER OR MANAGED CARE  
28 ORGANIZATION.

29 (10) “PRIOR AUTHORIZATION” MEANS A UTILIZATION  
30 MANAGEMENT TECHNIQUE THAT:

1                   **(I) IS USED BY CARRIERS AND MANAGED CARE**  
2 **ORGANIZATIONS;**

3                   **(II) REQUIRES PRIOR APPROVAL FOR A PROCEDURE,**  
4 **TREATMENT, MEDICATION, OR SERVICE BEFORE AN ENROLLEE IS ELIGIBLE FOR**  
5 **FULL PAYMENT OF THE BENEFIT; AND**

6                   **(III) IS USED TO DETERMINE WHETHER THE PROCEDURE,**  
7 **TREATMENT, MEDICATION, OR SERVICE IS MEDICALLY NECESSARY.**

8                   **(11) “PROGRAM RECIPIENT” MEANS AN INDIVIDUAL WHO**  
9 **RECEIVES BENEFITS UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM.**

10                   **(12) (I) “PROVIDER PANEL” MEANS THE HEALTH CARE**  
11 **PROVIDERS THAT CONTRACT EITHER DIRECTLY OR THROUGH A**  
12 **SUBCONTRACTING ENTITY WITH A CARRIER OR MANAGED CARE ORGANIZATION**  
13 **TO PROVIDE HEALTH CARE SERVICES TO THE ENROLLEES OF THE CARRIER OR**  
14 **MANAGED CARE ORGANIZATION.**

15                   **(II) “PROVIDER PANEL” DOES NOT INCLUDE AN**  
16 **ARRANGEMENT IN WHICH ANY HEALTH CARE PROVIDER MAY PARTICIPATE**  
17 **SOLELY BY CONTRACTING WITH THE CARRIER OR MANAGED CARE**  
18 **ORGANIZATION TO PROVIDE HEALTH CARE SERVICES AT A DISCOUNTED**  
19 **FEE-FOR-SERVICE RATE.**

20                   **(13) “RECEIVING CARRIER OR MANAGED CARE ORGANIZATION”**  
21 **MEANS:**

22                   **(I) THE CARRIER THAT ISSUES THE NEW HEALTH BENEFIT**  
23 **PLAN WHEN AN ENROLLEE TRANSITIONS FROM ANOTHER CARRIER OR A**  
24 **MANAGED CARE ORGANIZATION; OR**

25                   **(II) THE MANAGED CARE ORGANIZATION THAT ACCEPTS**  
26 **THE ENROLLEE WHEN THE ENROLLEE TRANSITIONS FROM ANOTHER MANAGED**  
27 **CARE ORGANIZATION OR A CARRIER.**

28                   **(14) “RELINQUISHING CARRIER OR MANAGED CARE**  
29 **ORGANIZATION” MEANS:**

30                   **(I) THE CARRIER THAT ISSUED THE PRIOR HEALTH**  
31 **BENEFIT PLAN WHEN AN ENROLLEE TRANSITIONS TO A NEW CARRIER OR A**  
32 **MANAGED CARE ORGANIZATION; OR**

1                   (II) THE MANAGED CARE ORGANIZATION IN WHICH AN  
2 ENROLLEE HAD BEEN ENROLLED PRIOR TO THE ENROLLEE'S TRANSITION TO A  
3 NEW MANAGED CARE ORGANIZATION OR A CARRIER.

4                   (15) "SERIOUS CHRONIC CONDITION" MEANS A MEDICAL OR  
5 DENTAL CONDITION DUE TO A DISEASE, AN ILLNESS, OR ANY OTHER MEDICAL  
6 OR DENTAL PROBLEM THAT:

7                   (I) ~~INCLUDES PERIODS DURING WHICH AN INDIVIDUAL IS~~  
8 ~~UNABLE TO WORK, ATTEND SCHOOL, OR PERFORM OTHER REGULAR DAILY~~  
9 ~~ACTIVITIES IS SERIOUS IN NATURE;~~

10                  (II) PERSISTS WITHOUT FULL CURE OR WORSENS OVER AN  
11 EXTENDED PERIOD OF TIME; AND

12                  (III) ~~REQUIRES ONGOING TREATMENT BY, OR UNDER THE~~  
13 ~~SUPERVISION OF,~~ IS ACTIVELY MANAGED OR SUPERVISED BY A HEALTH CARE  
14 PROVIDER TO MAINTAIN REMISSION OR PREVENT DETERIORATION.

15                  (16) "THIRD-PARTY ADMINISTRATOR" MEANS AN ORGANIZATION  
16 UNDER CONTRACT WITH THE MARYLAND MEDICAL ASSISTANCE PROGRAM TO  
17 ADMINISTER CERTAIN BENEFITS AND SERVICES PROVIDED BY THE MARYLAND  
18 MEDICAL ASSISTANCE PROGRAM.

19                  (B) (1) THE PURPOSE OF THIS SECTION IS TO ADVANCE THE STATE'S  
20 PROGRESS IN:

21                  ~~(1)~~ (I) PROTECTING MARYLANDERS FROM HARMFUL  
22 DISRUPTIONS IN HEALTH CARE SERVICES; AND

23                  ~~(2)~~ (II) PROMOTING REASONABLE CONTINUITY OF HEALTH  
24 CARE FOR MARYLANDERS WHEN TRANSITIONING:

25                         ~~(1)~~ 1. FROM ONE CARRIER TO ANOTHER CARRIER; AND

26                         ~~(2)~~ 2. BETWEEN A CARRIER AND THE MARYLAND  
27 MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH  
28 PROGRAM.

29                  (2) THIS SECTION:

30                         (I) WITH RESPECT TO ANY BENEFIT OR SERVICE THAT IS  
31 PROVIDED THROUGH THE MARYLAND MEDICAL ASSISTANCE  
32 FEE-FOR-SERVICE PROGRAM:

1                   **1. SHALL NOT APPLY WHEN THE ENROLLEE IS**  
2 **TRANSITIONING FROM A CARRIER TO THE MARYLAND MEDICAL ASSISTANCE**  
3 **PROGRAM; AND**

4                   **2. EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**  
5 **SECTION, SHALL APPLY WHEN THE ENROLLEE IS TRANSITIONING FROM THE**  
6 **MARYLAND MEDICAL ASSISTANCE PROGRAM TO A CARRIER;**

7                   **(II) SHALL APPLY TO CONTRACTS ISSUED OR RENEWED ON**  
8 **OR AFTER JANUARY 1, 2015; AND**

9                   **(III) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH,**  
10 **WITH RESPECT TO DENTAL BENEFITS, SHALL APPLY TO COVERED SERVICES FOR**  
11 **WHICH A COORDINATED TREATMENT PLAN IS IN PROGRESS.**

12           **(C) (1) WITH RESPECT TO ANY BENEFIT OR SERVICE PROVIDED**  
13 **THROUGH THE MARYLAND MEDICAL ASSISTANCE FEE-FOR-SERVICE**  
14 **PROGRAM, THIS SUBSECTION SHALL APPLY:**

15                   **(I) ONLY TO ENROLLEES TRANSITIONING FROM THE**  
16 **MARYLAND MEDICAL ASSISTANCE PROGRAM TO A CARRIER; AND**

17                   **(II) ONLY TO BEHAVIORAL HEALTH AND DENTAL BENEFITS,**  
18 **TO THE EXTENT THEY ARE AUTHORIZED BY A THIRD-PARTY ADMINISTRATOR.**

19                   **(2) SUBJECT TO PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION, AT**  
20 **THE REQUEST OF AN ENROLLEE OR AN ENROLLEE'S PARENT, GUARDIAN, ~~OR~~**  
21 **DESIGNEE, OR HEALTH CARE PROVIDER, A RECEIVING CARRIER OR MANAGED**  
22 **CARE ORGANIZATION SHALL ACCEPT A ~~PRIOR AUTHORIZATION~~**  
23 **PREAUTHORIZATION FROM A RELINQUISHING CARRIER ~~OR~~, MANAGED CARE**  
24 **ORGANIZATION, OR THIRD-PARTY ADMINISTRATOR FOR:**

25                   **(I) THE PROCEDURES, TREATMENTS, MEDICATIONS, OR**  
26 **SERVICES COVERED BY THE BENEFITS OFFERED BY THE RECEIVING CARRIER**  
27 **OR MANAGED CARE ORGANIZATION; AND**

28                   **(II) THE FOLLOWING TIME PERIODS:**

29                   **1. THE LESSER OF THE COURSE OF TREATMENT OR**  
30 **90 DAYS; AND**

31                   **2. THE DURATION OF THE THREE TRIMESTERS OF A**  
32 **PREGNANCY AND THE INITIAL POSTPARTUM VISIT.**



1           **(3) SUBJECT TO APPLICABLE LAWS RELATING TO THE**  
 2 **CONFIDENTIALITY OF MEDICAL RECORDS, INCLUDING 42 C.F.R. PART 2, AT**  
 3 **THE REQUEST AND WITH THE CONSENT OF AN ENROLLEE OR AN ENROLLEE'S**  
 4 **PARENT, GUARDIAN, OR DESIGNEE, A RELINQUISHING CARRIER, MANAGED**  
 5 **CARE ORGANIZATION, OR THIRD-PARTY ADMINISTRATOR, SHALL PROVIDE A**  
 6 **COPY OF A PREAUTHORIZATION TO THE ENROLLEE'S RECEIVING CARRIER OR**  
 7 **MANAGED CARE ORGANIZATION WITHIN 10 DAYS AFTER RECEIPT OF THE**  
 8 **REQUEST.**

9           ~~(2)~~ **(4)**       AFTER THE TIME PERIODS UNDER PARAGRAPH ~~(1)~~~~(H)~~  
 10 **(2)**~~(II)~~ HAVE LAPSED, THE RECEIVING CARRIER OR MANAGED CARE  
 11 ORGANIZATION MAY ELECT TO PERFORM ITS OWN UTILIZATION REVIEW IN  
 12 ORDER TO:

13                       **(I)**       REASSESS AND MAKE ITS OWN DETERMINATION  
 14 REGARDING THE NEED FOR CONTINUED TREATMENT; AND

15                       **(II)**       AUTHORIZE ANY CONTINUED PROCEDURE, TREATMENT,  
 16 MEDICATION, OR SERVICE DETERMINED TO BE MEDICALLY NECESSARY.

17           **(D) (1)**       SUBJECT TO PARAGRAPHS **(2)** THROUGH **(5)** OF THIS  
 18 SUBSECTION, AT THE REQUEST OF AN ENROLLEE OR AN ENROLLEE'S PARENT,  
 19 GUARDIAN, ~~OR~~ ~~DESIGNEE,~~ **OR HEALTH CARE PROVIDER,** A RECEIVING CARRIER  
 20 OR MANAGED CARE ORGANIZATION SHALL ALLOW A NEW ENROLLEE TO  
 21 CONTINUE TO RECEIVE HEALTH CARE SERVICES BEING RENDERED BY A  
 22 NONPARTICIPATING PROVIDER AT THE TIME OF THE ENROLLEE'S TRANSITION  
 23 TO THE RECEIVING HEALTH BENEFIT PLAN OR MANAGED CARE ORGANIZATION.

24                       **(2) (I)**       THE SERVICES AN ENROLLEE SHALL BE ALLOWED TO  
 25 CONTINUE TO RECEIVE ARE SERVICES FOR:

- 26                               ~~(H)~~   **1.**       THE FOLLOWING CONDITIONS:
- 27                                       ~~1.~~ **A.**   ACUTE CONDITIONS;
- 28                                       ~~2.~~ **B.**   SERIOUS CHRONIC CONDITIONS;
- 29                                       ~~3.~~ **C.**   PREGNANCY; **AND**
- 30                                       ~~4.~~ **D.**   MENTAL HEALTH CONDITIONS AND SUBSTANCE  
 31 USE DISORDERS; **AND**

1                    2. ANY OTHER CONDITION ON WHICH THE  
 2 NONPARTICIPATING PROVIDER AND THE RECEIVING CARRIER OR MANAGED  
 3 CARE ORGANIZATION REACH AGREEMENT.

4                    (II) EXAMPLES OF CONDITIONS SET FORTH IN  
 5 SUBPARAGRAPH (I) 1A AND B OF THIS PARAGRAPH MAY INCLUDE:

6                    ~~5.~~ 1. BONE FRACTURES;

7                    ~~6.~~ 2. JOINT REPLACEMENTS;

8                    ~~7.~~ 3. HEART ATTACKS WITHIN THE PREVIOUS 30 DAYS;

9                    ~~8.~~ 4. CANCER DIAGNOSED WITHIN THE PREVIOUS 60  
 10 DAYS;

11                    ~~9.~~ 5. HIV/AIDS; AND

12                    ~~10.~~ 6. ORGAN TRANSPLANTS; AND.

13                    ~~(II)~~ (III) AN ENROLLEE SHALL BE ALLOWED TO CONTINUE  
 14 TO RECEIVE SERVICES FOR THE CONDITIONS UNDER THIS PARAGRAPH FOR THE  
 15 TIME PERIODS UNDER SUBSECTION (C)(1)(II) OF THIS SECTION.

16                    (3) (I) THIS PARAGRAPH DOES NOT APPLY TO COMPENSATION  
 17 RATES OR METHODS OF PAYMENT ESTABLISHED UNDER § 14-205.2 OF THIS  
 18 ARTICLE OR § 19-710.1 OF THE HEALTH - GENERAL ARTICLE.

19                    ~~(II)~~ (II) SUBJECT TO PARAGRAPH (4) PARAGRAPHS (4) AND (5)  
 20 OF THIS SUBSECTION, THE NONPARTICIPATING PROVIDER AND THE RECEIVING  
 21 CARRIER OR MANAGED CARE ORGANIZATION, WITH RESPECT TO THE  
 22 PROVISION OF THE COVERED SERVICES, SHALL AGREE ON THE COMPENSATION  
 23 RATES AND METHODS OF PAYMENT THAT MAY INCLUDE:

24                    ~~1.~~ 1. PAY THE NONPARTICIPATING PROVIDER THE  
 25 RATES RATE AND METHODS METHOD OF PAYMENT THE RECEIVING CARRIER OR  
 26 MANAGED CARE ORGANIZATION NORMALLY WOULD PAY AND USE FOR  
 27 PARTICIPATING PROVIDERS WHO PROVIDE SIMILAR SERVICES IN THE SAME OR  
 28 SIMILAR GEOGRAPHIC AREA; OR

29                    ~~2.~~ 2. ANY OTHER RATES AND METHODS OF PAYMENT  
 30 OTHERWISE IN COMPLIANCE WITH THIS SUBSECTION.

1                   **(III) THE NONPARTICIPATING PROVIDER MAY DECLINE TO**  
2 **ACCEPT THE RATE OR METHOD OF PAYMENT UNDER SUBPARAGRAPH (II) OF**  
3 **THIS PARAGRAPH BY GIVING 10 DAYS' PRIOR NOTICE TO THE ENROLLEE AND**  
4 **RECEIVING CARRIER.**

5                   **(IV) SUBJECT TO PARAGRAPHS (4) AND (5) OF THIS**  
6 **SUBSECTION, IF THE NONPARTICIPATING PROVIDER DOES NOT ACCEPT THE**  
7 **RATE OR METHOD OF PAYMENT UNDER SUBPARAGRAPH (II) OF THIS**  
8 **PARAGRAPH, THE NONPARTICIPATING PROVIDER AND THE RECEIVING CARRIER**  
9 **OR MANAGED CARE ORGANIZATION MAY REACH AGREEMENT ON AN**  
10 **ALTERNATIVE RATE OR METHOD OF PAYMENT FOR THE PROVISION OF COVERED**  
11 **SERVICES.**

12                   **(4) THE ~~AGREEMENT BETWEEN THE NONPARTICIPATING~~**  
13 **~~PROVIDER AND THE RECEIVING CARRIER OR MANAGED CARE ORGANIZATION~~**  
14 **RATES AND METHODS OF PAYMENT UNDER PARAGRAPH (3)(II) AND (IV) OF THIS**  
15 **SUBSECTION SHALL:**

16                   **(I) BE SUBJECT TO ANY STATE OR FEDERAL**  
17 **REQUIREMENTS APPLICABLE TO REIMBURSEMENT FOR HEALTH CARE**  
18 **PROVIDER SERVICES, INCLUDING:**

19                   **1. § 1302(G) OF THE AFFORDABLE CARE ACT,**  
20 **WHICH APPLIES TO REIMBURSEMENT RATES FOR FEDERALLY QUALIFIED**  
21 **HEALTH CENTERS; AND**

22                   **2. TITLE 19, SUBTITLE 2 OF THE HEALTH -**  
23 **GENERAL ARTICLE, UNDER WHICH THE HEALTH SERVICES COST REVIEW**  
24 **COMMISSION ESTABLISHES PROVIDER RATES; AND**

25                   **(II) ENSURE THAT:**

26                   **1. AN ENROLLEE IS NOT SUBJECT TO BALANCE**  
27 **BILLING; AND**

28                   **2. THE COPAYMENTS, DEDUCTIBLES, AND ANY**  
29 **COINSURANCE REQUIRED OF AN ENROLLEE FOR THE SERVICES RENDERED IN**  
30 **ACCORDANCE WITH THIS SECTION ARE THE SAME AS THOSE THAT WOULD BE**  
31 **REQUIRED IF THE ENROLLEE WERE RECEIVING THE SERVICES FROM A**  
32 **PARTICIPATING PROVIDER OF THE RECEIVING CARRIER OR MANAGED CARE**  
33 **ORGANIZATION.**

34                   **(5) IF THE NONPARTICIPATING PROVIDER DOES NOT ACCEPT THE**  
35 **RATE AND METHOD OF COMPENSATION UNDER PARAGRAPH (3)(II) OF THIS**

1 SUBSECTION, AND THE CARRIER OR MANAGED CARE ORGANIZATION ~~DO~~ DOES  
 2 NOT REACH AN AGREEMENT WITH THE NONPARTICIPATING PROVIDER FOR AN  
 3 ALTERNATIVE RATE AND METHOD OF PAYMENT UNDER PARAGRAPH ~~(3)~~ (3)(IV)  
 4 OF THIS SUBSECTION:

5 (I) THE NONPARTICIPATING PROVIDER IS NOT REQUIRED  
 6 TO CONTINUE TO PROVIDE THE SERVICES; ~~AND~~

7 (II) APPROPRIATIONS § 14-205.3 OF THIS ARTICLE, UNDER  
 8 WHICH AN ENROLLEE MAY ASSIGN BENEFITS TO A NONPREFERRED PROVIDER  
 9 AND THE PROVIDER MAY BALANCE BILL THE ENROLLEE, SHALL APPLY TO THE  
 10 EXTENT IT WOULD APPLY ABSENT THIS SECTION; AND

11 (III) UNLESS THE ENROLLEE HAS ASSIGNED BENEFITS TO A  
 12 NONPREFERRED PROVIDER UNDER § 14-205.3 OF THIS ARTICLE, THE CARRIER  
 13 OR MANAGED CARE ORGANIZATION IS NOT REQUIRED TO ALLOW THE SERVICES  
 14 TO BE PROVIDED BY THE NONPARTICIPATING PROVIDER SHALL FACILITATE  
 15 TRANSITION OF THE ENROLLEE TO A PROVIDER ON THE PROVIDER PANEL OF  
 16 THE CARRIER OR MANAGED CARE ORGANIZATION.

17 (E) (1) THIS SECTION DOES NOT:

18 ~~(1)~~ (I) REQUIRE A CARRIER OR MANAGED CARE ORGANIZATION  
 19 TO COVER SERVICES OR PROVIDE BENEFITS THAT ARE NOT OTHERWISE  
 20 COVERED UNDER THE TERMS AND CONDITIONS OF A HEALTH BENEFIT PLAN,  
 21 THE MARYLAND MEDICAL ASSISTANCE PROGRAM, OR THE MARYLAND  
 22 CHILDREN'S HEALTH PROGRAM; OR

23 ~~(2)~~ (II) PRECLUDE A CARRIER OR MANAGED CARE  
 24 ORGANIZATION FROM PROVIDING CONTINUITY OF CARE BEYOND THE  
 25 REQUIREMENTS OF THIS SECTION WITHIN THE PARAMETERS OF THE APPROVED  
 26 RATES OF THE CARRIER OR MANAGED CARE ORGANIZATION.

27 (2) (I) TO ENSURE CONTINUITY OF TREATMENT IN PROGRESS  
 28 FOR DENTAL SERVICES PROVIDED TO AN ENROLLEE, A RELINQUISHING  
 29 CARRIER MAY ELECT TO ALLOW AN ENROLLEE TO CONTINUE TO RECEIVE  
 30 DENTAL SERVICES BEING PROVIDED BY A PARTICIPATING PROVIDER OF THE  
 31 RELINQUISHING CARRIER THROUGH AN ARRANGEMENT IN WHICH THE  
 32 RELINQUISHING CARRIER PAYS THE PARTICIPATING PROVIDER ACCORDING TO  
 33 THE RATE AND METHOD OF PAYMENT THE RELINQUISHING CARRIER NORMALLY  
 34 WOULD PAY AND USE FOR THE PARTICIPATING PROVIDER.

35 (II) THE RATE AND METHOD OF PAYMENT UNDER  
 36 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL COMPLY WITH:

1                   **1. THE PROHIBITION ON BALANCE BILLING UNDER**  
2 **SUBSECTION (D)(4)(II) OF THIS SECTION; AND**

3                   **2. ANY COPAYMENTS, DEDUCTIBLES, AND**  
4 **COINSURANCE REQUIREMENTS IN THE ENROLLEE'S HEALTH BENEFIT PLAN**  
5 **UNDER THE RELINQUISHING CARRIER.**

6           **(F) (1) A RECEIVING CARRIER OR MANAGED CARE ORGANIZATION**  
7 **SHALL PROVIDE NOTICE TO A NEW ENROLLEE OF THE ENROLLEE'S OPTIONS**  
8 **AND RESPONSIBILITIES UNDER THIS SECTION IN A MANNER PRESCRIBED BY**  
9 **THE COMMISSIONER.**

10                   **(2) THE REQUIREMENTS OF THIS SECTION ARE:**

11                   **(i) IN ADDITION TO ANY OTHER LEGAL, PROFESSIONAL, OR**  
12 **ETHICAL OBLIGATIONS OF A CARRIER OR MANAGED CARE ORGANIZATION TO**  
13 **PROVIDE CONTINUITY OF CARE; AND**

14                   **(ii) NOT INTENDED TO LIMIT OR MAKE MORE RESTRICTIVE**  
15 **ANY OTHER CONTINUITY OF CARE REQUIREMENTS IN STATE OR FEDERAL LAW,**  
16 **REGULATIONS, OR PROFESSIONAL CODES OF CONDUCT.**

17           **(G) THE COMMISSIONER AND THE SECRETARY OF HEALTH AND**  
18 **MENTAL HYGIENE EACH MAY ADOPT REGULATIONS TO ENFORCE THE**  
19 **REQUIREMENTS OF THIS SECTION.**

20           **(H) (1) THE COMMISSIONER, THE MARYLAND HEALTH BENEFIT**  
21 **EXCHANGE, AND THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL**  
22 **COLLABORATE TO:**

23                   **(1) DETERMINE THE DATA, TO THE EXTENT ITS COLLECTION IS**  
24 **FEASIBLE AND PERMITTED BY LAW, THAT IS NECESSARY TO:**

25                   **(i) ASSESS THE IMPLEMENTATION AND EFFICACY OF THE**  
26 **REQUIREMENTS OF THIS SECTION; AND**

27                   **(ii) DEVELOP A PROCESS TO EVALUATE AND MONITOR**  
28 **CONTINUITY OF CARE, WITH PARTICULAR FOCUS ON NEWLY ELIGIBLE**  
29 **POPULATIONS, ANY DISPARATE OR DISCRIMINATORY IMPACT ON SPECIFIC**  
30 **POPULATIONS, AND TRENDS IN HEALTH DISPARITIES; AND.**

31                   **(2) ON REQUEST THE REQUISITE DATA FROM OF THE**  
32 **COMMISSIONER, THE MARYLAND HEALTH BENEFIT EXCHANGE, OR THE**

1 SECRETARY OF HEALTH AND MENTAL HYGIENE CARRIERS, MANAGED CARE  
 2 ORGANIZATIONS, AND HEALTH CARE PROVIDERS SHALL PROVIDE THE  
 3 REQUISITE DATA.

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

6 Article – Insurance

7 15–1303.

8 (b) (2) A carrier is exempt from the requirement in paragraph (1) of this  
 9 subsection if:

10 (i) 1. the reported total aggregate annual earned premium  
 11 from all individual health benefit plans in the State for the carrier and any other  
 12 carriers in the same insurance holding company system, as defined in § 7–101 of this  
 13 article, is less than \$10,000,000; OR

14 2. THE ONLY INDIVIDUAL HEALTH BENEFIT PLANS  
 15 THAT THE CARRIER OFFERS IN THE STATE ARE STUDENT HEALTH PLANS AS  
 16 DEFINED IN 45 C.F.R. § 147.145;

17 (ii) the Commissioner determines that the carrier complies with  
 18 the procedures established under paragraph (3) of this subsection; and

19 (iii) when the carrier ceases to meet the requirements for the  
 20 exemption, the carrier provides to the Commissioner immediate notice and its plan for  
 21 complying with the requirement in paragraph (1) of this subsection.

22 SECTION 4. 5. AND BE IT FURTHER ENACTED, That:

23 (a) It is the intent of the General Assembly that carriers, managed care  
 24 organizations, and providers shall succeed in ~~reaching agreement on payment for~~  
 25 providing continuity of care in the provision of covered services to ensure continuity of  
 26 ~~care~~, as required under § 15–140(d) of the Insurance Article, as enacted by Section 3 of  
 27 this Act, in order to minimize harmful disruptions in care for Marylanders without  
 28 requiring further legislative directive regarding mandatory rates of compensation and  
 29 methods of payment.

30 (b) Using the data requested under § 15–140(h) of the Insurance Article, as  
 31 enacted by Section 3 of this Act, the Maryland Health Benefit Exchange, the  
 32 Department of Health and Mental Hygiene, ~~and~~ the Maryland Insurance  
 33 Administration, and the Maryland Health Care Commission shall conduct a study on  
 34 the implementation and efficacy of the requirements of § 15–140 of the Insurance  
 35 Article, as enacted by Section 3 of this Act.

1 (c) On or before December 1, 2017, the Exchange, the Department, ~~and the~~  
 2 Administration, and the Maryland Health Care Commission shall report to the  
 3 Governor and, in accordance with § 2-1246 of the State Government Article, the  
 4 General Assembly on:

5 (1) the findings of the study, which, to the extent feasible, shall  
 6 ~~including~~ include the extent to which § 15-140(d) of the Insurance Article, as enacted  
 7 by Section 3 this Act, has:

8 (i) been effective in promoting continuity of care for  
 9 Marylanders; and

10 (ii) affected newly eligible populations and trends in health  
 11 disparities;

12 (iii) had a disparate impact on specific populations, including  
 13 individuals suffering from mental health and substance use disorders; and

14 (iv) had a discriminatory impact based on gender identity or  
 15 sexual orientation; and

16 (2) recommendations as to additional legislation, if any, that should be  
 17 considered regarding rates of compensation and methods of payment, or any other  
 18 measures that would increase the effectiveness of the State's efforts to promote  
 19 continuity of care.

20 ~~SECTION 5. AND BE IT FURTHER ENACTED, That the terms of the initial~~  
 21 ~~members of the Performance Standards and Measurement Advisory Committee~~  
 22 ~~established under Section 2 of this Act shall expire as follows:~~

23 ~~(1) three members in 2014;~~

24 ~~(2) five members in 2015; and~~

25 ~~(3) five members in 2016.~~

26 SECTION 6. AND BE IT FURTHER ENACTED, That:

27 (a) The Maryland Health Benefit Exchange and the Maryland Insurance  
 28 Administration shall:

29 (1) conduct a study of the impact of the Affordable Care Act's  
 30 allowance of a tobacco use rating of 1.5 to 1, including:

31 (i) its effect on insurance premiums generally;

1                   (ii) its effect on the affordability and purchase of insurance, and  
2 access to health care, for tobacco users; and

3                   (iii) any disparate impact on specific vulnerable populations; and

4                   (2) assess the options that may be available to the State to address  
5 any adverse consequences of the tobacco use rating.

6           (b) On or before September 1, 2014, the Maryland Health Benefit Exchange  
7 and the Maryland Insurance Administration shall report to the Governor and, in  
8 accordance with § 2-1246 of the State Government Article, the General Assembly, on  
9 the findings of the study and any recommendations for further legislative action.

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

11           (a) Pending adoption of regulations under Title 31 of the Insurance Article,  
12 and after receiving comment from the Joint Committee on Administrative, Executive,  
13 and Legislative Review, the Senate Finance Committee, the House Health and  
14 Government Operations Committee, carriers, and the public, the Board of Trustees of  
15 the Maryland Health Benefit Exchange may adopt interim policies, if necessary, to  
16 ensure that the Maryland Health Benefit Exchange:

17                   (1) is fully prepared to begin successful operations by October 1, 2013;  
18 and

19                   (2) is and will remain in compliance with all federal laws, regulations,  
20 policies, and deadlines.

21           (b) Interim policies under subsection (a) of this section:

22                   (1) may be adopted only when necessary to ensure that the Maryland  
23 Health Benefit Exchange is in compliance with federal policies, which have been and  
24 will likely continue to be in flux;

25                   (2) shall be made public on adoption;

26                   (3) shall be submitted as proposed regulations to the Joint Committee  
27 on Administrative, Executive, and Legislative Review within 6 months after adoption  
28 by the Board of Trustees; and

29                   (4) shall sunset no later than 1 year after submission as proposed  
30 regulations to the Joint Committee on Administrative, Executive, and Legislative  
31 Review.

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



1           (a) The Maryland Health Benefit Exchange and the Maryland Insurance  
2 Administration shall:

3                   (1) conduct a study of the impact of federal regulations governing the  
4 manner in which pediatric dental benefits must be offered and purchased inside and  
5 outside the Maryland Health Benefit Exchange, including:

6                           (i) their effect on the affordability and accessibility of pediatric  
7 dental benefits; and

8                           (ii) their effect on children's access to dental care; and

9                   (2) assess the options that may be available to the State to address  
10 any adverse consequences of the manner in which pediatric dental benefits must be  
11 offered and purchased under the federal regulations.

12           (b) On or before December 1, 2014, the Maryland Health Benefit Exchange  
13 and the Maryland Insurance Administration shall report to the Governor and, in  
14 accordance with § 2-1246 of the State Government Article, the General Assembly on  
15 the findings of the study and any recommendations for further legislative action.

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

17           (a) (1) The Maryland Health Benefit Exchange and the Maryland  
18 Insurance Administration shall conduct a study of the captive producer program  
19 established under Section 2 of this Act.

20                   (2) The study shall include an analysis of the effect of the program on:

21                           (i) Exchange enrollment;

22                           (ii) reduction in the percentage of the State's uninsured;

23                           (iii) the percentage of Maryland residents eligible for federal  
24 subsidies and cost-sharing assistance who access federal affordability programs; and

25                           (iv) the percentage of Maryland residents who transition from  
26 health benefit plans outside the Exchange to qualified health plans inside the  
27 Exchange.

28           (b) On or before December 1, 2015, the Maryland Health Benefit Exchange  
29 and the Maryland Insurance Administration shall report to the Governor and, in  
30 accordance with § 2-1246 of the State Government Article, the General Assembly on  
31 the findings of the study and any recommendations for further legislative action.

32           SECTION 10. AND BE IT FURTHER ENACTED, That the changes to §  
33 6-101(b) of the Insurance Article, as enacted by Section 2 of this Act, shall remain

1 effective for a period of 5 years and 1 month and, at the end of June 30, 2018, with no  
 2 further action required by the General Assembly, the changes to § 6-101(b) of the  
 3 Insurance Article shall be abrogated and of no further force and effect.

4 SECTION ~~5, 10,~~ 11. AND BE IT FURTHER ENACTED, That Section 1 of this  
 5 Act shall take effect January 1, 2014.

6 SECTION ~~6, 11,~~ 12. AND BE IT FURTHER ENACTED, That Section 3 of this  
 7 Act shall take effect January 1, 2015.

8 SECTION 13. AND BE IT FURTHER ENACTED, That Section 4 of this Act  
 9 shall take effect January 1, 2014, the effective date of Section 2 of Chapter 152 of the  
 10 Acts of the General Assembly of 2012. If the effective date of Section 2 of Chapter 152  
 11 is amended, Section 4 of this Act shall take effect on the taking effect of Section 2 of  
 12 Chapter 152.

13 SECTION ~~7, 12,~~ 14. AND BE IT FURTHER ENACTED, That, except as  
 14 provided in Sections ~~5 and 6 10 and 11~~ 11, 12, and 13 of this Act, this Act shall take  
 15 effect June 1, 2013.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.