

HOUSE BILL 1509

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4lr3238

By: **Delegate Hammen**

Introduced and read first time: February 27, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

AN ACT concerning

Maryland Health Benefit Exchange – State Reinsurance Program and Health Insurance Subsidy Program

FOR the purpose of substituting the Health Insurance Subsidy Program for the State Reinsurance Program in certain provisions of law relating to funding for the State Reinsurance Program; repealing certain provisions of law authorizing the establishment of the State Reinsurance Program; authorizing the Maryland Health Benefit Exchange, with the approval of the Maryland Insurance Commissioner, to establish the Health Insurance Subsidy Program to take effect on or after a certain date; providing for the purpose and use of funds available through the Health Insurance Subsidy Program; authorizing the Health Insurance Subsidy Program to use certain revenue under certain circumstances; altering the date for submission of a certain report; making certain conforming changes; and generally relating to the Maryland Health Benefit Exchange, the State Reinsurance Program, and the Health Insurance Subsidy Program.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–214(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,
Article – Insurance
Section 14–502(a) and 14–504(a) through (c) and (g)
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 14–502(d), 14–504(d) and (f), 31–107, and 31–117(c)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

BY adding to

Article – Insurance
 Section 31–120
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

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

Article – Health – General

19–214.

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

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

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

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

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

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

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

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

(i) The Commission shall ensure that the assessment:

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

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

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

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

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

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

1. To supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008; and

2. To provide funding for the operation and administration of the Maryland Health Insurance Plan, including reimbursing the Department for subsidizing the plan costs of members of the Maryland Health Insurance Plan under a Medicaid waiver program.

(ii) Any funds remaining after expenditures under subparagraph (i) of this paragraph have been made may be used:

1. For the general operations of the Medicaid program; and

2. To provide funding for the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31-117] **§ 31-120** of the Insurance Article.

Article – Insurance

14-502.

(a) There is a Maryland Health Insurance Plan.

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

(1) subsidize health insurance coverage for medically uninsurable individuals and bridge eligible individuals; and

(2) fund the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31–117] **§ 31–120** of this article.

14–504.

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

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

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

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

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

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

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

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

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

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

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

- (5) interest on deposits or investments of money from the Fund;
- (6) premium tax revenue collected under § 14–107 of this title;
- (7) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;
- (8) money donated to the Fund; and
- (9) money awarded to the Fund through grants.

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

(2) The Administrator:

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

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

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

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

(d) (1) (i) The Administrator shall deposit all money collected in accordance with § 19–214(d)(1)(ii) of the Health – General Article in a separate account, titled in the name of the State of Maryland, for the Maryland Health Insurance Plan.

(ii) The Administrator shall keep complete and separate records of all transactions for the separate account.

(2) Beginning January 1, 2014, and subject to § 19–214(d)(5) of the Health – General Article and paragraph (3) of this subsection, the Board may allow the Administrator to transfer money in the separate account into the Maryland Health Benefit Exchange Fund for the purpose of funding the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31–117] **§ 31–120** of this article.

(3) A transfer of money under paragraph (2) of this subsection:

(i) shall be based on the determination of funding needs of the Plan and the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program made under paragraph (4) of this subsection; and

(ii) may be made only from money in the separate account in excess of the amount determined under paragraph (4)(i) of this subsection.

(4) On or before October 1, 2013, and on or before October 1 of each year thereafter until the Plan no longer has any liability for claims submitted by Plan enrollees, the Board of Trustees of the Maryland Health Benefit Exchange and the Board of the Plan shall determine:

(i) the amount of money in the separate account that will be needed to pay claims of Plan enrollees, support Plan operations, and otherwise meet the obligations of the Plan for the following calendar year; and

(ii) the amount of money that will be needed to fund the operations of the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program for the following calendar year.

(5) On or before [December 31, 2013] **OCTOBER 1, 2014**, and on or before [December 31] **OCTOBER 1** of each year thereafter until the Plan no longer has any liability for claims submitted by Plan enrollees and the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program is terminated, the Board of Trustees of the Maryland Health Benefit Exchange and the Board shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

- (i) the transition of Plan enrollees out of the Plan, including:
1. how enrollees are made aware of changes in their insurance options;
 2. how enrollees will be assisted through the transition;
- and
3. whether any funding will be required to support the transition; and

(ii) the use of the Fund for the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program.

(f) (1) In addition to the operation and administration of the Plan, the Fund shall be used:

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

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

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

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

(4) (i) Beginning January 1, 2014, the funds collected in accordance with § 19–214(d)(1)(ii) of the Health – General Article and deposited in the Maryland Health Insurance Plan account of the Fund, may be used for the purposes of establishing and operating the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31–117] **§ 31–120** of this article.

(ii) The Board and the Board of Trustees of the Maryland Health Benefit Exchange shall develop and approve a plan for the appropriate amount and timing of the use of the funds for the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program.

(g) A debt or obligation of the Plan is not a debt of the State or a pledge of credit of the State.

31–107.

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

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

(i) provide funding for the operation and administration of the Exchange in carrying out the purposes of the Exchange under this title; and

(ii) provide funding for the establishment and operation of the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31–117] **§ 31–120** of this title.

(2) The operation and administration of the Exchange and the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program may include functions delegated by the Exchange to a third party under law or by contract.

(c) The Exchange shall administer the Fund.

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

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

(e) The Fund consists of:

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

(2) all revenue deposited into the Fund that is received from the distribution of the premium tax under § 6–103.2 of this article;

(3) all revenue that is deposited into the Fund under § 14–504(d) of this article from the separate account of the Maryland Health Insurance Plan Fund that holds money collected under § 19–214(d)(1)(ii) of the Health – General Article;

(4) income from investments made on behalf of the Fund;

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

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

(7) money donated to the Fund;

(8) money awarded to the Fund through grants; and

(9) any other money from any other source accepted for the benefit of the Fund.

(f) The Fund may be used only:

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

(2) for the establishment and operation of the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program authorized under [§ 31–117] **§ 31–120** of this title.

(g) (1) The Board shall maintain separate accounts within the Fund for Exchange operations and for the [State Reinsurance] **HEALTH INSURANCE SUBSIDY** Program.

(2) Accounts within the Fund shall contain those moneys that are intended to support the purpose for which each account is designated.

(3) Funds received from the distribution of the premium tax under § 6–103.2 of this article shall be placed in the account for Exchange operations and may be used only for the purpose of funding the operation and administration of the Exchange.

(h) (1) Expenditures from the Fund for the purposes authorized by this subtitle may be made only:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by the budget amendment procedure provided for in Title 7, Subtitle 2 of the State Finance and Procurement Article.

(2) Notwithstanding § 7–304 of the State Finance and Procurement Article, if the amount of the distribution from the premium tax under § 6–103.2 of this article exceeds in any State fiscal year the actual expenditures incurred for the operation and administration of the Exchange, funds in the Exchange operations account from the premium tax that remain unspent at the end of the State fiscal year shall revert to the General Fund of the State.

(3) If operating expenses of the Exchange may be charged to either State or non-State fund sources, the non-State funds shall be charged before State funds are charged.

(i) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

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

(3) Except as provided in subsection (h)(2) of this section, no part of the Fund may revert or be credited to the General Fund or any special fund of the State.

(j) A debt or an obligation of the Fund is not a debt of the State or a pledge of credit of the State.

31–117.

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

(2) As required by the Affordable Care Act and regulations adopted by the Secretary, the transitional reinsurance program shall be designed to protect

carriers that offer individual health benefit plans inside and outside the Exchange against excessive health care expenses incurred by high-risk individuals.

[(3) (i) The Exchange, in consultation with the Maryland Health Care Commission and with the approval of the Commissioner, may establish a State Reinsurance Program to take effect on or after January 1, 2014.

(ii) The purpose of the State Reinsurance Program is to mitigate the impact of high-risk individuals on rates in the individual insurance market inside and outside the Exchange.

(iii) With the approval of and in collaboration with the Board of the Maryland Health Insurance Plan, the Exchange may use revenue received from the Maryland Health Insurance Plan Fund under § 14-504(d) of this article to fund the State Reinsurance Program.]

31-120.

(A) THE EXCHANGE, WITH THE APPROVAL OF THE COMMISSIONER, MAY ESTABLISH A HEALTH INSURANCE SUBSIDY PROGRAM TO TAKE EFFECT ON OR AFTER JANUARY 1, 2015.

(B) THE PURPOSE OF THE HEALTH INSURANCE SUBSIDY PROGRAM IS TO MAKE HEALTH INSURANCE MORE AFFORDABLE.

(C) FUNDS AVAILABLE THROUGH THE HEALTH INSURANCE SUBSIDY PROGRAM MAY BE USED TO:

(1) SUBSIDIZE THE PREMIUMS AND COST-SHARING OBLIGATIONS OF QUALIFIED INDIVIDUALS FOR QUALIFIED HEALTH PLANS PURCHASED THROUGH THE INDIVIDUAL EXCHANGE; OR

(2) MITIGATE THE IMPACT OF HIGH-RISK INDIVIDUALS ON RATES IN THE INDIVIDUAL INSURANCE MARKET INSIDE AND OUTSIDE THE EXCHANGE BY REINSURING AGAINST EXCESSIVE HEALTH CARE EXPENSES.

(D) WITH THE APPROVAL OF AND COLLABORATION WITH THE BOARD OF DIRECTORS FOR THE MARYLAND HEALTH INSURANCE PLAN, THE EXCHANGE MAY USE REVENUE RECEIVED FROM THE MARYLAND HEALTH INSURANCE PLAN FUND UNDER § 14-504(D) OF THIS ARTICLE TO FUND THE HEALTH INSURANCE SUBSIDY PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014.