

Chapter 462

(House Bill 1766)

AN ACT concerning

Senior Prescription Drug Assistance Program – Sunset Extension and Repeal of Subsidy for Medicare Part D Coverage Gap

FOR the purpose of extending the termination date of the Senior Prescription Drug Assistance Program; altering the period of time during which the subsidy required under the Program may not exceed a certain amount; repealing the requirement that the Program annually provide a certain subsidy of up to the full amount of the Medicare Part D coverage gap; repealing certain provisions of law requiring and governing the transfer of certain funds to the Senior Prescription Drug Assistance Program Fund by certain corporations under certain circumstances; making conforming changes; providing for a delayed effective date for certain provisions of this Act; and generally relating to the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 14–102(h) and 14–106(e)

Annotated Code of Maryland

(2017 Replacement Volume)

BY repealing and reenacting, with amendments,

Chapter 153 of the Acts of the General Assembly of 2002, as amended by Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of the Acts of the General Assembly of 2006, Chapter 509 of the Acts of the General Assembly of 2007, Chapter 558 of the Acts of the General Assembly of 2008, Chapter 119 of the Acts of the General Assembly of 2010, Chapter 27 of the Acts of the General Assembly of 2012, Chapter 84 of the Acts of the General Assembly of 2014, and Chapter 321 of the Acts of the General Assembly of 2016

Section 13

BY repealing and reenacting, with amendments,

Article – Health – General

Section 15–1003(c) and (e) and 15–1004(e)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing

Article – Insurance

Section 14–106.2

Annotated Code of Maryland

(2017 Replacement Volume)

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

Article – Insurance

14–106.

(e) The subsidy that a nonprofit health service plan is required to provide to the Senior Prescription Drug Assistance Program under subsection (d)(1)(iii) of this section may not exceed:

- (1) for the period of January 1, 2006 through June 30, 2006, \$8,000,000;
- (2) for fiscal years 2008 through [2020] **2025**, \$14,000,000; and
- (3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, Chapter 509 of the Acts of 2007, Chapter 558 of the Acts of 2008, Chapter 119 of the Acts of 2010, Chapter 27 of the Acts of 2012, Chapter 84 of the Acts of 2014, and Chapter 321 of the Acts of 2016

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short–Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short–Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) Subsidies shall be offered to enrollees through the Senior Prescription Drug Assistance Program established under Title 15, Subtitle 10 of the Health – General Article. At the end of December 31, [2019] **2024**, the Senior Prescription Drug Assistance

Program established under Title 15, Subtitle 10 of the Health – General Article shall be abrogated and of no further force and effect.

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

Article – Health – General

15–1003.

(c) The Program[:

(1) May] **MAY** annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low–income subsidy[: and

(2) Shall annually provide an additional subsidy up to the full amount of the Medicare Part D coverage gap, subject to the availability of:

(i) Funds provided under § 14–106.2 of the Insurance Article; and

(ii) Any other funds available for this purpose].

(e) The Department shall determine annually:

(1) The number of individuals to be enrolled in the Program;

(2) The amount of subsidy to be provided under [subsections (a) and (c)(2)] **SUBSECTION (A)** of this section; and

(3) The amount of any additional subsidy provided under subsection [(c)(1)] **(C)** of this section.

15–1004.

(e) The Fund consists of:

(1) Money transferred to the Fund by a nonprofit health service plan under [§§ 14–106(d) and 14–106.2] **§ 14–106(D)** of the Insurance Article;

Article – Insurance

14–102.

(h) The provisions of subsections (d) and (e) of this section and §§ 14–106, 14–106.1, [14–106.2,] 14–115(d), (e), (f), and (g), and 14–139(d) and (e) of this subtitle do

not apply to a nonprofit health service plan that insures between 1 and 10,000 covered lives in Maryland or issues contracts for only one of the following services:

- (1) podiatric;
- (2) chiropractic;
- (3) pharmaceutical;
- (4) dental;
- (5) psychological; or
- (6) optometric.

[14–106.2.

(a) This section applies to a corporation that is:

- (1) issued a certificate of authority as a nonprofit health service plan; and
- (2) the sole member of a corporation issued a certificate of authority as a nonprofit health service plan.

(b) Except as provided under subsection (c) of this section, beginning with the calendar year that starts on January 1, 2009, and each calendar year thereafter, a corporation subject to this section shall transfer \$4,000,000 to the Senior Prescription Drug Assistance Program Fund established under § 15–1004 of the Health – General Article if the corporation has a surplus that exceeds 800% of the consolidated risk–based capital requirements applicable to the corporation based on the corporation’s annual required statutory filing due March 1 of the most recent preceding calendar year for which:

- (1) the corporation has filed an annual statement with the Administration;
and
- (2) the filing of the annual statement preceded the start of the calendar year for which payment is to be made.

(c) A corporation is not required to make the transfer under subsection (b) of this section if:

- (1) the surplus of the corporation does not exceed 800% of the consolidated risk–based capital requirements applicable to the corporation in the most recent preceding calendar year for which:

(i) the corporation has filed an annual statement with the Administration; and

(ii) the filing of the annual statement preceded the start of the calendar year for which payment is to be made; or

(2) the federal government eliminates the coverage gap in the Medicare Part D prescription drug benefit.

(d) (1) On or before September 1 of each year, a corporation that is subject to this section shall notify the Maryland Department of Health whether the corporation will transfer \$4,000,000 to the Senior Prescription Drug Assistance Program Fund under this section during the calendar year that starts on the immediately following January 1.

(2) The corporation's determination on the transfer of funds shall be based on the risk-based capital calculation that is due on March 1 of the same calendar year in which the corporation gives the notice required under paragraph (1) of this subsection.

(e) A corporation that is subject to this section shall pay the \$4,000,000 to the Senior Prescription Drug Assistance Program Fund in quarterly installments of \$1,000,000, beginning not later than October 1 for the calendar year that starts on the immediately following January 1.

(f) The transfer of funds that a corporation is required to make to the Senior Prescription Drug Assistance Program Fund under subsection (b) of this section:

(1) is in addition to the subsidy that a nonprofit health service plan is required to provide to the Senior Prescription Drug Assistance Program under § 14-106(d)(1)(iii) of this subtitle; and

(2) is not subject to the limitation on the amount of the subsidy to the Senior Prescription Drug Assistance Program imposed by § 14-106(e) of this subtitle.]

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2018.

Approved by the Governor, May 8, 2018.