Chapter 598

(Senate Bill 239)

AN ACT concerning

Health Insurance – Individual Market Stabilization – Provider Fee

FOR the purpose of clarifying that certain provisions of law apply to managed care organizations; requiring a managed care organization to pay a certain fee on a certain basis in certain calendar years; altering the purpose of certain provisions of law requiring that certain entities be subject to a certain assessment on all amounts used to calculate a certain premium tax liability or the amount of the entity's premium tax exemption value; requiring that certain entities be subject to certain assessments ~~for~~ in certain calendar years ~~in which the federal government makes an assessment and for certain calendar years in which the federal government does not make an assessment under a certain provision of federal law;~~ clarifying that certain assessments are for insurance products that are subject to a certain provision of federal law and may be subject to an assessment by the State; requiring that the calculation of the assessment be made without regard to certain threshold limits or a certain partial exclusion of net premiums; making a conforming change; providing for the application of certain provisions of law; requiring the Maryland Health Insurance Coverage Protection Commission to study a certain matter; providing that certain provisions of this Act apply to stand–alone dental plan carriers and stand–alone vision plan carriers; providing for the termination of a certain provision of this Act, subject to a certain contingency; requiring the Maryland Insurance Commissioner to forward a copy of a certain notice to the Department of Legislative Services within a certain period of time and notify certain carriers; making a certain provision of this Act subject to a certain contingency; and generally relating to the stabilization of the individual market and the health insurance provider fee.

BY adding to
Article – Health – General
Section 15–102.3(g)
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 6–102.1
Annotated Code of Maryland
(2017 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, without amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(b)

BY repealing and reenacting, with amendments,
Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37 and 38 of the Acts of the General Assembly of 2018
Section 1(h)(1)

~~BY repealing and reenacting, with amendments,~~
~~Article – Insurance~~
~~Section 6–102.1(a)~~
~~Annotated Code of Maryland~~
~~(2017 Replacement Volume and 2018 Supplement)~~

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

Article – Health – General

15–102.3.

(G) (1) THE PROVISIONS OF § 6–102.1 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS.

(2) FOR EACH CALENDAR YEAR THAT THE INSURANCE COMMISSIONER ASSESSES A HEALTH INSURANCE PROVIDER FEE UNDER § 6–102.1 OF THE INSURANCE ARTICLE, A MANAGED CARE ORGANIZATION SHALL PAY THE FEE ON A QUARTERLY BASIS IN ACCORDANCE WITH A SCHEDULE ADOPTED BY THE INSURANCE COMMISSIONER.

Article – Insurance

6–102.1.

(a) This section applies to:

(1) an insurer, a nonprofit health service plan, a health maintenance organization, a dental plan organization, a fraternal benefit organization, and any other person subject to regulation by the State that provides a product that:

(i) is subject to ~~the fee under~~ § 9010 of the Affordable Care Act; and

(ii) may be subject to an assessment by the State; and

(2) a managed care organization authorized under Title 15, Subtitle 1 of the Health – General Article.

(b) The purpose of this section is to **[**recoup the aggregate amount of the**]** **ASSIST IN THE STABILIZATION OF THE INDIVIDUAL HEALTH INSURANCE MARKET BY ASSESSING A** health insurance provider fee **[**that otherwise would have been assessed under § 9010 of the Affordable Care Act**]** that is attributable to State health risk for calendar ~~year 2019 [as a bridge to stability in the individual health insurance market] AND EACH CALENDAR YEAR THEREAFTER~~ **YEARS 2019 THROUGH 2023, BOTH INCLUSIVE, AS PROVIDED FOR UNDER SUBSECTION (C) OF THIS SECTION**.

(c) (1) ~~[~~In~~]~~ ~~FOR A~~ calendar year ~~[~~2019~~]~~ ~~IN WHICH THE FEDERAL GOVERNMENT DOES NOT MAKE AN ASSESSMENT UNDER § 9010 OF THE AFFORDABLE CARE ACT~~, in addition to the amounts otherwise due under this subtitle, an entity subject to this section shall be subject to an assessment of 2.75% on all amounts used to calculate the entity's premium tax liability under § 6–102 of this subtitle or the amount of the entity's premium tax exemption value for ~~THE IMMEDIATELY PRECEDING~~ calendar year ~~[~~2018~~]~~.

(2) ~~FOR A CALENDAR YEAR IN WHICH THE FEDERAL GOVERNMENT MAKES AN ASSESSMENT UNDER § 9010 OF THE AFFORDABLE CARE ACT~~ **IN CALENDAR YEARS 2020 THROUGH 2023, BOTH INCLUSIVE, IN ADDITION TO THE AMOUNTS OTHERWISE DUE UNDER THIS SUBTITLE, AN ENTITY SUBJECT TO THIS SECTION SHALL BE SUBJECT TO AN ASSESSMENT OF 1% ON ALL AMOUNTS USED TO CALCULATE THE ENTITY'S PREMIUM TAX LIABILITY UNDER § 6–102 OF THIS SUBTITLE OR THE AMOUNT OF THE ENTITY'S PREMIUM TAX EXEMPTION VALUE FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.**

(3) THE ASSESSMENTS REQUIRED IN PARAGRAPHS (1) AND (2) OF THIS SUBSECTION ARE FOR PRODUCTS THAT:

(I) ARE SUBJECT TO § 9010 OF THE AFFORDABLE CARE ACT; AND

(II) MAY BE SUBJECT TO AN ASSESSMENT BY THE STATE.

(4) THE CALCULATION OF THE ASSESSMENTS REQUIRED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL BE MADE WITHOUT REGARD TO:

(I) THE THRESHOLD LIMITS ESTABLISHED IN § 9010(B)(2)(A) OF THE AFFORDABLE CARE ACT; OR

(II) THE PARTIAL EXCLUSION OF NET PREMIUMS PROVIDED FOR IN § 9010(B)(2)(B) OF THE AFFORDABLE CARE ACT.

[(2)**] (D)** Notwithstanding § 2–114 of this article, the assessment required under this section shall be distributed by the Commissioner to the Maryland Health Benefit Exchange Fund established under § 31–107 of this article.

Chapter 17 of the Acts of 2017, as amended by Chapters 37 and 38 of the Acts of 2018

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(b) There is a Maryland Health Insurance Coverage Protection Commission.

(h) (1) The Commission shall study and make recommendations for individual and group health insurance market stability, including:

(i) the components of one or more waivers under § 1332 of the Affordable Care Act to ensure market stability that may be submitted by the State;

(ii) whether to pursue a standard plan design that limits cost sharing;

(iii) whether to merge the individual and small group health insurance markets in the State for rating purposes;

(iv) whether to pursue a Basic Health Program;

(v) whether to pursue a Medicaid buy–in program for the individual market;

(vi) whether to provide subsidies that supplement premium tax credits or cost–sharing reductions described in § 1402(c) of the Affordable Care Act; **[**and**]**

(vii) whether to adopt a State–based individual health insurance mandate and how to use payments collected from individuals who do not maintain minimum essential coverage, including use of the payments to assist individuals in purchasing health insurance**; AND**

(VIII) WHETHER THE STATE REINSURANCE PROGRAM SHOULD BE EXTENDED AFTER CALENDAR YEAR 2023 AND, IF SO, HOW IT WILL BE FUNDED.

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

Article – Insurance

6–102.1.

(a) **(1)** This section applies to:

[(1)**]** **(I)** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** an insurer, a nonprofit health service plan, a health maintenance organization, a dental plan organization, a fraternal benefit organization, and any other person subject to regulation by the State that provides a product that:

[(i)**]** **1.** is subject to the fee under § 9010 of the Affordable Care Act; and

[(ii)**]** **2.** may be subject to an assessment by the State; and

[(2)**]** **(II)** a managed care organization authorized under Title 15, Subtitle 1 of the Health – General Article.

(2) THIS SECTION DOES NOT APPLY TO A STAND–ALONE DENTAL PLAN CARRIER OR A STAND–ALONE VISION PLAN CARRIER.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The assessment established under § 6–102.1 of the Insurance Article, as enacted by Section 1 of this Act, shall apply to stand–alone dental plan carriers and stand–alone vision plan carriers.

(b) If the federal government confirms that under the rules that implement § 1903 of the Social Security Act, which requires health care related taxes to be broad–based and uniform in order to apply to Medicaid providers, such as managed care organizations, that the State can impose a 1% assessment on Medicaid managed care organizations if it is imposing that fee on all commercial health insurance plans except dental and vision, subsection (a) of this section, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

(c) If the Maryland Insurance Commissioner receives notice of the confirmation described in subsection (b) of this section, within 5 days after receiving notice of the confirmation, the Commissioner shall:

(1) forward a copy of the notice to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401; and

(2) notify each stand–alone dental plan carrier and stand–alone vision plan carrier.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect contingent on the termination of Section 3(a) of this Act.

SECTION ~~2.~~ 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect October 1, 2019.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.