HOUSE BILL 378

By: Delegates Reznik, Bartlett, Barve, Ebersole, Fraser–Hidalgo, Kelly, R. Lewis, Moon, Stewart, and Terrasa

Introduced and read first time: January 30, 2019
Assigned to: Health and Government Operations and Economic Matters

A BILL ENTITLED

AN ACT concerning

Public Health – State–Provided Health Care Benefits

FOR the purpose of establishing the Office of Health Care Coverage in the Maryland Department of Health; providing for the purpose and duties of the Office; requiring the Office to contract with a certain number of managed care organizations; authorizing any health care provider to participate in the HealthcareMaryland Program; authorizing a managed care organization to make a certain determination; establishing the requirements for a managed care organization participating in the Program; authorizing a managed care organization participating in the Program to require certain cost sharing by enrollees; providing that the cost sharing required by a managed care organization may be required only under certain circumstances; requiring that certain cost sharing be scaled in a certain manner; requiring the Office to pay certain managed care organizations at a certain capitated rate; requiring the Office to collaborate with the Motor Vehicle Administration for certain purposes; requiring that certain State residents be auto–enrolled in a managed care organization in a certain manner; requiring the Office to collaborate with the Maryland Health Benefit Exchange to enroll individuals in the Program and ensure the availability of a certain program for enrollment; establishing the Health Care Coverage Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring interest earnings of the Fund to be credited to the Fund; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; requiring the Department to adopt certain regulations; requiring certain employers to pay to the Secretary of Labor, Licensing, and Regulation a certain annual payroll tax in a certain manner; prohibiting an employer from deducting the payroll tax from the wages of an employee; authorizing an employer to exempt certain wages when calculating the payroll tax payment; requiring the
Secretary to adopt certain regulations and to pay the revenue from the payroll tax into the Fund; establishing the HealthcareMaryland Commission; providing for the membership, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to develop certain recommendations; requiring the Commission to establish certain subcommittees; authorizing the Commission to convene certain workgroups; providing for the duties of the subcommittees; requiring the subcommittees to report to the Commission on or before a certain date; requiring the Commission to report to the Governor and the General Assembly on or before a certain date; providing for a delayed effective date for certain provisions of this Act; providing for the termination of certain provisions of this Act; defining certain terms; and generally relating to health care benefits for State residents.


BY adding to Article – Labor and Employment Section 13–101 to be under the new title “Title 13. Payroll Tax” Annotated Code of Maryland (2016 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

SUBTITLE 10. OFFICE OF HEALTH CARE COVERAGE.

2–1001.

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


(C) “Fund” means the Health Care Coverage Fund established under § 2–1005 of this subtitle.

(D) “Office” means the Office of Health Care Coverage established under § 2–1002 of this subtitle.

(E) “Program” means the HealthcareMaryland Program established by the Office.

2–1002.

(A) There is an Office of Health Care Coverage in the Department.

(B) The purpose of the Office is to establish and carry out the HealthcareMaryland Program to provide health care benefits to State residents who do not receive federal benefits through Medicare, TRICARE, plans that are subject to ERISA, or any other federal medical program.

(C) The Office shall:

(1) Enroll in the Program all State residents who do not receive federal benefits through Medicare, TRICARE, plans that are subject to ERISA, or any other federal medical program;

(2) Contract with managed care organizations to provide Program benefits;

(3) Determine reimbursement rates for managed care
ORGANIZATIONS AND HEALTH PROVIDERS;

(4) DETERMINE THE HEALTH CARE BENEFITS AND SERVICES THAT WILL BE COVERED UNDER THE PROGRAM;

(5) ESTABLISH AND MAINTAIN A PREFERRED PRESCRIPTION DRUG LIST AND NEGOTIATE PHARMACEUTICAL COSTS;

(6) ADJUDICATE SERVICE AND FEE DENIAL APPEALS;

(7) ADMINISTER THE FUND; AND

(8) COLLABORATE WITH THE STATE TREASURER TO DISBURSE PAYMENTS FOR THE FUND.

2–1003.

(A) (1) THE OFFICE SHALL CONTRACT WITH THE NUMBER OF MANAGED CARE ORGANIZATIONS SUFFICIENT TO PROVIDE HEALTH CARE COVERAGE TO ALL STATE RESIDENTS ELIGIBLE FOR THE PROGRAM.

(2) ANY HEALTH CARE PROVIDER LICENSED IN MARYLAND MAY PARTICIPATE IN THE PROGRAM.

(3) A MANAGED CARE ORGANIZATION MAY DETERMINE THE PROVIDERS WHO PARTICIPATE IN THE MANAGED CARE ORGANIZATION’S NETWORK.

(4) A MANAGED CARE ORGANIZATION PARTICIPATING IN THE PROGRAM SHALL:

(i) MAINTAIN A NETWORK OF PROVIDERS FOR SERVING ENROLLEES THAT IS ABLE TO MEET GEOGRAPHIC REQUIREMENTS AS DETERMINED BY THE COMMISSION; AND

(ii) PROVIDE AN ESSENTIAL BENEFITS PACKAGE THAT IS EQUAL TO OR MORE COMPREHENSIVE THAN THE BENEFITS PROVIDED UNDER THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THAT INCLUDES THE FOLLOWING:

1. DEVELOPMENTAL DISABILITY BENEFITS;

2. INTELLECTUAL DISABILITY BENEFITS;
3. Mental Health Benefits;
4. Substance Use Benefits;
5. Reproductive Benefits;
6. Family Planning Benefits;
7. In Vitro Fertilization Benefits;
8. Dental Benefits;
9. Vision Benefits;
10. Ambulatory Patient Services Benefits;
11. Emergency Services Benefits;
12. Hospitalization Benefits;
13. Maternity and Newborn Care Benefits;
14. Prescription Drug Benefits;
15. Benefits for Rehabilitative and Habilitative Services and Devices;
16. Laboratory Services Benefits;
17. Preventive and Wellness Services and Chronic Disease Management;
18. Pediatric Benefits, Including Oral and Vision Care; and
19. Any other benefits as determined by the Commission.

(5) (I) Subject to subparagraph (II) of this paragraph, a managed care organization participating in the Program may require cost sharing by enrollees, including co-payments and deductibles, in accordance with regulations adopted by the Program.
(II) 1. The cost sharing required by a managed care organization may be required only if the managed care organization demonstrates to the Program that the managed care organization has exhausted all other reasonable methods of obtaining funding.

2. The cost sharing required by a managed care organization shall be scaled according to an individual’s income tax bracket.

3. An individual in the lowest income tax bracket may not be subject to cost sharing.

(B) The Office shall pay managed care organizations participating in the Program at a capitated rate for each enrollee that is based on the actuarial cost of the managed care organization’s benefits, costs, and usage.

2–1004.

(A) (1) The Office shall collaborate with the Motor Vehicle Administration to:

   (i) Using the driver’s license database, identify state residents who are eligible for the Program; and

   (ii) Contact eligible state residents and provide an opportunity for the residents to enroll with a managed care organization.

(2) A state resident who does not enroll with a managed care organization shall be auto-enrolled in a managed care organization in a manner that ensures equitable distribution of enrollees among the managed care organizations.

(B) The Office shall:

   (1) Collaborate with the Maryland Health Benefit Exchange to enroll state residents in the Program; and

   (2) Ensure the availability of a web-based program for enrollment that is:

       (i) Located in health care facilities and offices; and
(II) Accessible by a State resident who does not have a driver’s license or State-issued identification card.

2–1005.

(A) There is a Health Care Coverage Fund.

(B) The purpose of the Fund is to provide health care coverage to eligible State residents through the Program.

(C) The Department 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) Money appropriated in the State budget to the Fund in an amount at least equal to the annual cost of State personnel health insurance costs as of 2018;

(2) Any revenue received from the payroll tax imposed on employers under § 13–101 of the Labor and Employment Article;

(3) Any funds available to the State resulting from savings achieved through the streamlining, consolidation, or elimination of commissions, programs, or other units of State or local government in establishing the Program;

(4) Any savings achieved by the State as a purchaser of pharmaceuticals or through negotiated reimbursement rates;

(5) Interest earnings of the Fund; and

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

(F) The Fund may be used only for any costs associated with the Office and carrying out the Program, including any administrative
EXPENSES.

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

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

2–1006.

The Office shall adopt regulations to implement this subtitle.

Article – Labor and Employment

Title 13. Payroll Tax.


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

(2) (I) Except as provided in subparagraph (II) of this paragraph, “employer” has the meaning stated in § 10–905 of the Tax – General Article.

(II) “Employer” does not include the federal government or another state.

(3) “Payroll tax” means the tax imposed under this section.

(4) “Secretary” means the Secretary of Labor, Licensing, and Regulation.

(5) “Wages” has the meaning stated in § 10–905 of the Tax – General Article.

(B) (1) Subject to paragraph (2) of this subsection, each employer shall pay to the Secretary an annual payroll tax equal to 10% of the total wages paid to its employees in the State during the immediately preceding calendar year.

(2) When calculating the payroll tax payment, an employer may exempt:
(I) WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT TAXABLE FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES; AND

(II) WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE FOR MEDICARE OR RECEIVES FEDERAL BENEFITS THROUGH TRICARE OR ANY OTHER FEDERAL MEDICAL PROGRAM.

(C) AN EMPLOYER MAY NOT DEDUCT THE PAYROLL TAX, WHOLLY OR PARTLY, FROM THE WAGES OF AN EMPLOYEE.

(D) AN EMPLOYER SHALL PAY THE PAYROLL TAX TO THE SECRETARY ON A PERIODIC BASIS AND SUBMIT TO THE SECRETARY PERIODIC REPORTS FOR THE DETERMINATION OF THE PAYROLL TAX DUE AS REQUIRED BY THE SECRETARY IN REGULATIONS.

(E) THE SECRETARY SHALL:

(1) ADOPT REGULATIONS TO ADMINISTER AND COLLECT THE PAYROLL TAX; AND

(2) PAY THE REVENUE FROM THE PAYROLL TAX INTO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER § 2–1005 OF THE HEALTH – GENERAL ARTICLE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

112. the Pretrial Services Program Grant Fund; [and]

113. the Veteran Employment and Transition Success Fund;

AND
114. THE HEALTH CARE COVERAGE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a HealthcareMaryland Commission.

(b) The Commission consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Health, or the Secretary’s designee;

(4) the Secretary of Human Services, or the Secretary’s designee;

(5) the Maryland Insurance Commissioner, or the Commissioner’s designee;

(6) the Attorney General, or the Attorney General’s designee;

(7) the Executive Director of the Maryland Health Care Commission, or the Executive Director’s designee;

(8) the Executive Director of the Health Services Cost Review Commission, or the Executive Director’s designee;

(9) the Executive Director of the Maryland Health Benefit Exchange, or the Executive Director’s designee;

(10) the Motor Vehicle Administrator, or the Administrator’s designee;

(11) the Comptroller of Maryland; and

(12) the following members, appointed by the Governor:

(i) one representative from the Maryland Hospital Association;

(ii) one representative of a managed care organization, appointed jointly by the President of the Senate and the Speaker of the House;

(iii) one representative of an administrative services organization;

(iv) one representative from MedChi, the Maryland State Medical Society; and
one representative from a labor union that has a main purpose
of representing health care workers.

(c) The Secretary of Health, or the Secretary’s designee, shall serve as chair of
the Commission.

(d) The Maryland Department of Health shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State
Travel Regulations, as provided in the State budget.

(f) The Commission shall provide recommendations for implementation of the
Healthcare Maryland Program established under Section 1 of this Act, including the
financing, benefit package, rate structure, enrollment criteria, and provider requirements
for the Program.

(g) (1) From among its members, the Commission shall establish the following
subcommittees:

(i) Financing;

(ii) Benefits;

(iii) Rate and Reimbursement;

(iv) Enrollment and Provider Criteria; and

(v) Program Design.

(2) The Commission may convene workgroups to solicit input from
stakeholders.

(3) The Financing subcommittee shall:

(i) determine the cost of State personnel health coverage;

(ii) calculate the total cost in the State budget that is allocated for
health care, including governmental agencies and any other line item that would be
duplicative under the Healthcare Maryland Program established under Section 1 of this
Act;

(iii) determine the cost sharing structure to be implemented by the
Office of Health Care Coverage, established under Section 1 of this Act, which shall be scaled according to an individual's income tax bracket;

(iv) identify federal funding sources that are available, including Medicaid matching funds, waiver contributions, and funding sources for behavioral health and substance use; and

(v) identify funding sources, in addition to a payroll tax, to cover the costs of operating the HealthcareMaryland Program established under Section 1 of this Act.

(4) The Benefits subcommittee shall:

(i) determine the essential health benefits package to be covered under the HealthcareMaryland Program, established under Section 1 of this Act, that is equal to or more comprehensive than the benefits provided under the federal Patient Protection and Affordable Care Act; and

(ii) determine the benefits to be covered beyond the benefits provided under the federal Patient Protection and Affordable Care Act, including developmental and intellectual disability benefits, substance use, behavioral health, reproductive health, family planning and in vitro fertilization, dental, and vision.

(5) The Enrollment and Provider Criteria subcommittee shall:

(i) establish the criteria for eligible enrollees, which shall include all Maryland residents, except residents who receive coverage under Medicare, under TRICARE or any other military coverage, through plans that are subject to ERISA, or through a Federal Employee Health Insurance Plan; and

(ii) make recommendations on how to convert individuals who receive coverage through the Maryland Health Benefit Exchange to enrollees in the HealthcareMaryland Program established under Section 1 of this Act.

(6) The Program Design subcommittee shall:

(i) identify any office, program, commission, or other unit of State or local government that is duplicative or unnecessary as a result of the implementation of the HealthcareMaryland Program established under Section 1 of this Act; and

(ii) make recommendations on how to streamline the State's health care delivery system to implement the HealthcareMaryland Program, established under Section 1 of this Act, including statutory and regulatory changes.

(h) (1) On or before July 1, 2020, the subcommittees established under subsection (g) of this section shall report their findings and recommendations to the Commission.
(2) On or before December 1, 2020, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on regulatory and legislative recommendations to:

(i) implement the HealthcareMaryland Program established under Section 1 of this Act; and

(ii) establish a permanent HealthcareMaryland Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2021.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2019. Section 2 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.