

SENATE BILL 738

Unofficial Copy  
J1

1999 Regular Session  
(9r2516)

**ENROLLED BILL**  
-- Finance/Economic Matters --

Introduced by **Senator Bromwell**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Children and Families Health Care Program**

3 FOR the purpose of repealing the requirement that the Department of Health and  
4 Mental Hygiene implement a program to provide health insurance to certain  
5 individuals through certain employer sponsored or individual health benefit  
6 plans; ~~repealing~~ altering the requirement that certain individuals pay a certain  
7 annual family contribution amount to participate in the Children and Families  
8 Health Care Program; requiring the Department to provide certain notice to  
9 certain individuals concerning an annual family contribution amount; altering  
10 the purposes of the Maryland Health Care Foundation; repealing the  
11 requirement that certain persons conduct certain studies and report the results  
12 on an annual basis; requiring certain entities to study and make  
13 recommendations concerning expansion of a certain program and report to  
14 certain committees of the General Assembly by certain dates; providing for the  
15 delegation of a certain duty; providing for the effective date of this Act; and  
16 generally relating to the Children and Families Health Care Program.

17 BY repealing and reenacting, with amendments,

1 Article - Health - General  
2 Section 15-301 and 15-305  
3 Annotated Code of Maryland  
4 (1994 Replacement Volume and 1998 Supplement)

5 BY repealing  
6 Chapter 110 of the Acts of the General Assembly of 1998  
7 Section 4

8 BY repealing and reenacting, without amendments,  
9 Chapter 110 of the Acts of the General Assembly of 1998  
10 Section 5 through 12

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

13 **Article - Health - General**

14 15-301.

15 (a) In this section, "carrier" means:

16 (1) An insurer;

17 (2) A nonprofit service plan;

18 (3) A health maintenance organization; or

19 (4) Any other person that provides health benefit plans subject to  
20 regulation by the State.

21 (b) There is a Children and Families Health Care Program.

22 (c) The Children and Families Health Care Program shall provide, subject to  
23 the limitations of the State budget and any other requirements imposed by the State  
24 and as permitted by federal law or waiver, comprehensive medical care and other  
25 health care services to an individual who has a family income at or below 200 percent  
26 of the federal poverty level and who is under the age of 19 years.

27 (d) [On or before July 1, 1999, the Department of Health and Mental Hygiene  
28 shall develop and implement a program to provide comprehensive medical care and  
29 other health care services to eligible individuals with a family income that is above  
30 185 percent of the federal poverty level but does not exceed 200 percent of the federal  
31 poverty level through employer sponsored health benefit plans or individual health  
32 benefit plans.

33 (e) The Children and Families Health Care Program shall be administered  
34 through[:

1 (1) The] THE program under Subtitle 1 of this title requiring individuals  
2 to enroll in managed care organizations[; or

3 (2) The program developed under subsection (d) of this section].

4 [(f) (1) Except as provided in paragraph (2) of this subsection, upon  
5 implementation of the program under subsection (d) of this section, an individual  
6 with a family income that is above 185 percent of the federal poverty level but does  
7 not exceed 200 percent of the federal poverty level is not eligible for the program  
8 under Subtitle 1 of this title and is only eligible to receive a voucher to cover the costs  
9 of dependent coverage if:

10 (i) Dependent coverage is available to the individual under an  
11 employer sponsored health benefit plan or an individual health benefit plan; and

12 (ii) Dependent coverage under an employer sponsored health  
13 benefit plan or individual health benefit plan has been certified by the Secretary  
14 under paragraph (4) of this subsection at the time the individual is determined to be  
15 eligible for the Children and Families Health Care Program.

16 (2) An individual who is in the Children and Families Health Care  
17 Program under Subtitle 1 of this title may remain in that program even if a certified  
18 employer sponsored health benefit plan or a certified individual health benefit plan  
19 becomes available.

20 (3) An eligible individual may be enrolled in an employer sponsored  
21 health benefit plan or individual health benefit plan under:

22 (i) An independent insurance policy; or

23 (ii) An add-on to an existing policy.

24 (4) (i) A carrier that intends to participate in the Children and  
25 Families Health Care Program under subsection (d) of this section shall submit its  
26 health benefit plan to the Secretary.

27 (ii) The Secretary, in consultation with the Commissioner, shall  
28 certify, within a reasonable time, if the employer sponsored health benefit plan or  
29 individual health benefit plan meets the coverage requirements under Title XXI of  
30 the Social Security Act and any other federal requirements, and includes a benefit  
31 that is substantially equivalent to the early and periodic screening diagnosis and  
32 treatment program.

33 (iii) If the Secretary determines that the employer sponsored health  
34 benefit plan or individual health benefit plan does not meet the requirements of  
35 subparagraph (ii) of this paragraph, the Secretary shall notify the carrier of that  
36 determination within a reasonable time.

37 (iv) As part of the certification review under subparagraph (ii) of  
38 this paragraph, the Secretary shall ensure that the premium payment for the eligible

1 individual's portion of the benefit cost to be paid by the State in accordance with  
 2 paragraph (6)(ii) of this subsection, does not exceed the cost that the State would  
 3 incur if the individual was enrolled in the program under Subtitle 1 of this title.

4 (v) A carrier participating in the Children and Families Health  
 5 Care Program shall offer its health benefit plans:

6 1. For employer sponsored health benefit plans to each  
 7 employer that has employees with dependents who may qualify for the program  
 8 under subsection (d) of this section; or

9 2. For individual health benefit plans to each individual who  
 10 may qualify for the program under subsection (d) of this section.

11 (5) A carrier that participates in the Children and Families Health Care  
 12 Program shall submit a certification of eligibility for the eligible individual on the  
 13 form required by the Secretary.

14 (6) In consultation with the Commissioner, the Secretary shall:

15 (i) Approve premium payments at a level that is adjusted to the  
 16 benefits provided; and

17 (ii) Upon notice of enrollment of an eligible individual into a  
 18 qualified employer sponsored health benefit plan or individual health benefit plan,  
 19 make premium payments for the eligible individual's portion of the benefit cost  
 20 directly to the carrier.]

21 ~~(g)~~ (E) (1) In this subsection, "family contribution" means the portion of  
 22 the premium cost paid by an eligible individual to enroll and participate in the  
 23 Children and Families Health Care Program.

24 (2) On or before July 1, ~~1999~~ 2000 and in addition to any other  
 25 requirements of this subtitle, as a requirement to enroll and maintain participation in  
 26 the Children and Families Health Care Program, an individual's parent or guardian  
 27 shall agree to pay an annual family contribution amount determined by the  
 28 Department in accordance with paragraph (3) of this subsection.

29 (3) (i) For eligible individuals whose family income is at or above 185  
 30 percent of the federal poverty level, the Department shall develop an annual family  
 31 contribution amount payment system such that the cost of the family contribution is  
 32 at least 1 percent of the annual family income but does not exceed 2 percent of the  
 33 annual family income.

34 (ii) The Department shall determine by regulation the schedules  
 35 and the method of collection for the family contribution amount under subparagraph  
 36 (i) of this paragraph.}]

37 (III) BEFORE COLLECTING A FAMILY CONTRIBUTION FROM ANY  
 38 INDIVIDUAL, THE DEPARTMENT SHALL PROVIDE THE INDIVIDUAL WITH NOTICE OF

1 THE REQUIREMENTS OF THE FAMILY CONTRIBUTION AMOUNT AND THE OPTIONS  
2 AVAILABLE TO THE INDIVIDUAL TO MAKE PREMIUM PAYMENTS.

3 15-305.

4 [(a)] The purpose of the Health Care Foundation under this section is to:

5 (1) Develop programs to expand the availability of health insurance  
6 coverage to low-income, uninsured children [in accordance with subsection (b) of this  
7 section];

8 (2) Involve the private health insurance market in the delivery of health  
9 insurance coverage [in accordance with subsection (b) of this section] TO  
10 LOW-INCOME, UNINSURED CHILDREN IN THE STATE AND THEIR FAMILIES;

11 (3) Identify and aggressively pursue a mix of State, federal, and private  
12 funds, including grants, to enable the Foundation to provide and fund health care  
13 insurance coverage [in accordance with subsection (b) of this section];

14 (4) Develop methods to minimize the effect of employers or employees  
15 terminating employer sponsored health insurance or privately purchased health care  
16 insurance; and

17 (5) Coordinate its activities with the other necessary entities in order to  
18 address the health care needs of the low-income, uninsured children of the State and  
19 their families.

20 [(b)] The Department of Health and Mental Hygiene, in consultation with the  
21 Maryland Insurance Administration, the Health Care Access and Cost Commission,  
22 the Foundation, the business community, and the health care insurance industry  
23 shall:

24 (1) Conduct a study to determine the feasibility and cost effectiveness of  
25 providing health insurance coverage through the private market to uninsured  
26 children and their families, and in particular to those individuals with a family  
27 income between 185 percent of the federal poverty level and 200 percent of the federal  
28 poverty level, as part of the Program established under § 15-301 of this subtitle; and

29 (2) Recommend programs to provide health insurance coverage through  
30 the private market to uninsured children and their families that would qualify for the  
31 enhanced federal match provided for under Title XXI of the Social Security Act as part  
32 of the Program established under § 15-301 of this subtitle.

33 (c) The Department shall report on the result of its study and its  
34 recommendations to the Governor, and in accordance with § 2-1246 of the State  
35 Government Article, to the General Assembly, on or before December 1, 1998 and each  
36 December 1 thereafter.]

## Chapter 110 of the Acts of 1998

1  
2 [SECTION 4. AND BE IT FURTHER ENACTED, That the Department of  
3 Health and Mental Hygiene shall submit to the federal Health Care Financing  
4 Administration a State plan to implement the Children and Families Health Care  
5 Program established under § 15-301 of the Health - General Article.  
6 Notwithstanding the provisions of § 15-301 of the Health - General Article, the  
7 Department shall not be required to include a description of the use of employer  
8 sponsored health benefit plans, individual health benefit plans, or family contribution  
9 amount requirements in the State plan that the Department submits to the federal  
10 Health Care Financing Administration. However, the Department shall submit to the  
11 federal Health Care Financing Administration a proposed amendment to the State  
12 plan to include the use of employer sponsored health benefit plans and individual  
13 health benefit plans for individuals with a family income above 185 percent of the  
14 federal poverty level but does not exceed 200 percent of the federal poverty level, and  
15 the use of family contribution amounts in sufficient time to meet the July 1, 1999  
16 implementation date for employer sponsored health benefit plans, individual health  
17 benefit plans, and family contribution amount requirements.]

18 SECTION 5. AND BE IT FURTHER ENACTED, That authorization is  
19 granted to the Governor to transfer by contract, grant, or otherwise, \$500,000 to the  
20 Foundation in the 1998 fiscal year or 1999 fiscal year budgets to cover the expenses  
21 associated with the operation of the Foundation.

22 SECTION 6. AND BE IT FURTHER ENACTED, That the Department of  
23 Health and Mental Hygiene shall seek a written determination or decision from the  
24 federal Health Care Financing Administration as to whether the State can employ a  
25 refundable tax credit in the Children and Families Health Care Program established  
26 under § 15-301 of the Health - General Article. On or before December 1, 1998, the  
27 Department shall report to the General Assembly, in accordance with § 2-1246 of the  
28 State Government Article, on the following:

29 (1) the federal Health Care Financing Administration's written  
30 determination or decision as to whether the State can employ a refundable tax credit  
31 in the Children and Families Health Care Program; and

32 (2) if the federal Health Care Financing Administration approves a  
33 refundable tax credit, the feasibility of and methods for employing a refundable tax  
34 credit in the Children and Families Health Care Program.

35 SECTION 7. AND BE IT FURTHER ENACTED, That the Department of  
36 Health and Mental Hygiene shall seek a written determination or decision from the  
37 federal Health Care Financing Administration as to whether the State can extend the  
38 use of employer sponsored health benefit plans or individual health benefit plans on  
39 a voluntary basis to individuals who have a family income at or below 185 percent of  
40 the federal poverty level. On or before December 1, 1998, the Department shall report  
41 to the General Assembly, in accordance with § 2-1246 of the State Government  
42 Article, on the following:

1           (1)       the federal Health Care Financing Administration's written  
2 determination or decision as to whether the State can extend the use of an employer  
3 sponsored health benefit plan or an individual health benefit plan on a voluntary  
4 basis to individuals with a family income at or below 185 percent of the federal  
5 poverty level; and

6           (2)       if the federal Health Care Financing Administration approves  
7 extending the use of an employer sponsored health benefit plan or an individual  
8 health benefit plan to individuals with a family income at or below 185 percent of the  
9 federal poverty level, the feasibility of and methods for implementing the use of  
10 employer sponsored health benefit plans or individuals health benefit plans on a  
11 voluntary basis to individuals with a family income at or below 185 percent of the  
12 federal poverty level.

13       SECTION 8. AND BE IT FURTHER ENACTED, That, on or before December  
14 1, 1998, the Department of Health and Mental Hygiene shall study and report to the  
15 Governor and, in accordance with § 2-1246 of the State Government Article, to the  
16 General Assembly on the administrative costs associated with mandating the use of  
17 employer sponsored health benefit plans, individual health benefit plans, and family  
18 contribution requirements, including an estimate of the administrative costs that the  
19 Department, carriers, managed care organizations, and employers will incur in  
20 implementing the use of employer sponsored health benefit plans, individual health  
21 benefit plans, and family contribution amounts. Notwithstanding the provisions of  
22 this Section, the Department shall take whatever steps are necessary to move  
23 forward with the implementation of the requirements contained in Title 15, Subtitle 3  
24 of the Health - General Article.

25       SECTION 9. AND BE IT FURTHER ENACTED, That on or before December  
26 1, 1998, the Department of Legislative Services shall study and report to the  
27 Governor and, in accordance with § 2-1246 of the State Government Article, the  
28 General Assembly on the structure and organization of entities similar to the  
29 Maryland Health Care Foundation established under § 20-501 of the Health -  
30 General Article.

31       SECTION 10. AND BE IT FURTHER ENACTED, That if any provision of this  
32 Act or the application thereof to any person or circumstance is not approved by the  
33 federal Health Care Financing Administration, that disapproval does not affect other  
34 provisions or any other application of this Act which is approved, and for this purpose  
35 the provisions of this Act are declared severable.

36       SECTION 11. AND BE IT FURTHER ENACTED, That at the end of June 30,  
37 2004, with no further action required by the General Assembly, Section 3 of this Act  
38 shall be abrogated and of no further force and effect.

39       SECTION 12. AND BE IT FURTHER ENACTED, That this Act is an  
40 emergency measure, is necessary for the immediate preservation of the public health  
41 and safety, has been passed by a ye and nay vote supported by three-fifths of all the  
42 members elected to each of the two Houses of the General Assembly, and shall take  
43 effect from the date it is enacted.

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) The Department of Health and Mental Hygiene, in consultation with the  
3 Maryland Insurance Administration, the Health Care Foundation, the Health Care  
4 Access and Cost Commission, the business community, and the health care insurance  
5 industry shall study and make recommendations regarding the ability of the State to  
6 expand the Children and Families Health Care Program beyond the current income  
7 eligibility level to individuals who would qualify for the enhanced federal match  
8 provided for under Title XXI of the Social Security Act as part of the program  
9 established under § 15-301 of this subtitle through private market, employer  
10 sponsored health benefits plans and private market, individual health benefit plans.

11 (b) In conducting the study and making the recommendations required under  
12 subsection (a), the Department shall:

13 (1) document and consider the policies of other states concerning the  
14 extension of private market insurance to uninsured children;

15 (2) determine the feasibility of including any portion of the population  
16 that is currently eligible for the Children and Families Health Care Program in an  
17 expanded private option program;

18 (3) develop a specific health benefit package to be offered through the  
19 private market, taking into consideration both the health care needs and the  
20 affordability concerns of the eligible population;

21 (4) determine an appropriate annual family contribution level or  
22 premium for the product developed under item (3) of this subsection;

23 (5) document and consider the number of employers that offer dependent  
24 coverage to employees and the average cost of that coverage to both employers and  
25 employees;

26 (6) with regard to employer sponsored health benefit plans, determine an  
27 appropriate employer contribution toward the cost of providing dependent coverage to  
28 eligible families; and

29 (7) develop a plan to foster the enrollment of the children of eligible State  
30 employees, including contractual employees of the State of Maryland in the program  
31 established under § 15-301 of the Health - General Article and any expansion of that  
32 program.

33 (c) The Department may delegate to the Health Care Access and Cost  
34 Commission the authority to develop a health insurance benefit package in accordance  
35 with subsection (b)(3) of this section.

36 (d) The Department shall report on the result of its study and its  
37 recommendations in an interim report no later than September 1, 1999, and in  
38 accordance with § 2-1246 of the State Government Article, a final report to the House



1 Economic Matters Committee and Senate Finance Committee no later than December  
2 1, 1999.

3 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
4 effect June 1, 1999.