
By: **Delegates Pendergrass, Barve, Bobo, Brown, Cane, D. Davis, Dembrow, Donoghue, Eckardt, Elliott, Finifter, Frush, Goldwater, Guns, Hammen, Harrison, Hill, Hubbard, Hurson, Kirk, Kopp, Krysiak, La Vay, Love, Mandel, McClenahan, McHale, Minnick, Mitchell, Moe, Morhaim, Nathan-Pulliam, Oaks, Owings, Redmer, Schisler, Stern, Stull, Turner, Walkup, Weir, and Zirkin**

Introduced and read first time: February 8, 2001
Assigned to: Economic Matters and Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Senior Assistance - Short-Term Prescription Drug Subsidy Plan for Urban**
3 **and Rural Counties**

4 FOR the purpose of establishing a certain prescription drug plan for Medicare Plus
5 Choice-eligible individuals residing in certain medically underserved urban and
6 rural counties or portions of urban and rural counties; requesting a certain
7 carrier to provide the plan as a condition of receiving a certain hospital rate
8 differential; providing for the funding of the program created by this Act;
9 requiring certain carriers to pay a certain assessment into a certain fund as a
10 condition of receiving a certain hospital rate differential; providing an exception
11 to the insurance premium tax for the plan created under this Act; requiring that
12 the carrier providing the plan meet certain conditions; requiring that the plan
13 include a certain deductible and limitation on total benefits and certain co-pays
14 and premiums; allowing the plan to exclude coverage for certain drugs;
15 requiring the Secretary of Health and Mental Hygiene to adopt certain
16 regulations and issue a report jointly with the Maryland Insurance
17 Administration and the Maryland Health Services Cost Review Commission;
18 prohibiting the Health Services Cost Review Commission from taking steps to
19 eliminate or adjust the differential for sustainable, affordable, and available
20 coverage for a certain period; authorizing the Secretary to suspend the plan and
21 certain provisions of this Act on certain notification from the Health Care
22 Financing Administration; providing for the termination of this Act; defining
23 certain terms; and generally relating to a short-term prescription plan for
24 certain individuals in certain medically underserved counties or portions of
25 counties and to the differential awarded certain carriers for providing
26 sustainable, affordable, and available coverage.

27 BY repealing and reenacting, with amendments,
28 Article - Insurance
29 Section 6-101 and 15-606

1 Annotated Code of Maryland
2 (1997 Volume and 2000 Supplement)

3 BY adding to
4 Article - Health - General
5 Section 15-701 through 15-705 to be under the new subtitle "Subtitle 7.
6 Short-Term Prescription Drug Subsidy Program for Urban and Rural
7 Counties"
8 Annotated Code of Maryland
9 (2000 Replacement Volume)

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

12 **Article - Insurance**

13 6-101.

14 (a) The following persons are subject to taxation under this subtitle:

15 (1) a person engaged as principal in the business of writing insurance
16 contracts, surety contracts, guaranty contracts, or annuity contracts;

17 (2) an attorney in fact for a reciprocal insurer;

18 (3) the Maryland Automobile Insurance Fund; and

19 (4) a credit indemnity company.

20 (b) The following persons are not subject to taxation under this subtitle:

21 (1) a nonprofit health service plan corporation;

22 (2) a fraternal benefit society;

23 (3) a health maintenance organization authorized by Title 19, Subtitle 7
24 of the Health - General Article;

25 (4) a surplus lines broker, who is subject to taxation in accordance with
26 Title 3, Subtitle 3 of this article;

27 (5) an unauthorized insurer, who is subject to taxation in accordance
28 with Title 4, Subtitle 2 of this article; or

29 (6) the Short-Term Prescription Drug Subsidy Plan created under Title
30 15, Subtitle 6 of the Health - General Article; OR

31 (7) THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN FOR URBAN
32 AND RURAL COUNTIES ESTABLISHED UNDER TITLE 15, SUBTITLE 7 OF THE HEALTH -
33 GENERAL ARTICLE.

1 15-606.

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

3 (1) an insurer;

4 (2) a nonprofit health service plan;

5 (3) a health maintenance organization;

6 (4) a dental plan organization; or

7 (5) any other person that provides health benefit plans subject to
8 regulation by the State.

9 (b) (1) The Maryland Health Care Commission shall adopt regulations that
10 specify a plan for substantial, available, and affordable coverage that shall be offered
11 in the nongroup market by a carrier that qualifies for an approved purchaser
12 differential under regulations adopted by the Health Services Cost Review
13 Commission.

14 (2) In establishing a plan under this subsection, the Maryland Health
15 Care Commission shall judge preventive services, medical treatments, procedures,
16 and related health services based on:

17 (i) their effectiveness in improving the health of individuals;

18 (ii) their impact on maintaining and improving health and
19 encouraging consumers to use only the health care services they need; and

20 (iii) their impact on the affordability of health care coverage.

21 (3) The Maryland Health Care Commission may exclude from the plan:

22 (i) a health care service, benefit, coverage, or reimbursement for
23 covered health care services that is required under this article or the Health -
24 General Article to be provided or offered in a health benefit plan that is issued or
25 delivered in the State by a carrier; or

26 (ii) reimbursement required by statute, by a health benefit plan for
27 a service when that service is performed by a health care provider who is licensed
28 under the Health Occupations Article and whose scope of practice includes that
29 service.

30 (4) The plan shall include uniform deductibles and cost-sharing
31 associated with its benefits, as determined by the Maryland Health Care
32 Commission.

33 (5) In establishing cost-sharing as part of the plan, the Maryland Health
34 Care Commission shall:

1 (i) include cost-sharing and other incentives to help consumers
2 use only the health care services they need;

3 (ii) balance the effect of cost-sharing in reducing premiums and in
4 affecting utilization of appropriate services; and

5 (iii) limit the total cost-sharing that may be incurred by an
6 individual in a year.

7 (c) (1) In addition to the requirements imposed under subsection (b) of this
8 section, a carrier may not receive the approved purchaser differential unless the
9 carrier contributes, as provided in paragraph (2) of this subsection, to the Short-Term
10 Prescription Drug Subsidy Plan AND THE SHORT-TERM PRESCRIPTION DRUG
11 SUBSIDY PLAN FOR URBAN AND RURAL COUNTIES created under Title 15, [Subtitle]
12 SUBTITLES 6 AND 7 of the Health - General Article.

13 (2) (i) The total contributions to be made to the Short-Term
14 Prescription Drug Subsidy Plan AND THE SHORT-TERM PRESCRIPTION DRUG
15 SUBSIDY PLAN FOR URBAN AND RURAL COUNTIES by all carriers participating in the
16 substantial, affordable, and available coverage differential program shall be \$5.4
17 million per year.

18 (ii) 1. Each carrier participating in the substantial, affordable,
19 and available coverage differential program shall contribute an amount to the
20 Short-Term Prescription Drug Subsidy Plan AND THE SHORT-TERM PRESCRIPTION
21 DRUG SUBSIDY PLAN FOR URBAN AND RURAL COUNTIES that is equal to the total
22 derived by multiplying \$5.4 million by the percentage of the total benefit to all
23 carriers from the substantial, affordable, and available coverage differential that the
24 carrier receives on January 1, 2000.

25 2. On July 1 of each year, the Health Services Cost Review
26 Commission shall calculate each carrier's contribution and assess the contribution as
27 provided in this subsection.

28 (iii) 1. The last carrier to provide Medicare Plus Choice coverage
29 in medically underserved counties or portions of counties LISTED UNDER §§ 15-601
30 AND 15-702 OF THE HEALTH - GENERAL ARTICLE shall use an amount equal to the
31 contribution derived under subparagraph (ii) of this paragraph to provide the
32 Short-Term Prescription Drug Subsidy Plan AND THE SHORT-TERM PRESCRIPTION
33 DRUG SUBSIDY PLAN FOR URBAN AND RURAL COUNTIES created under Title 15,
34 [Subtitle] SUBTITLES 6 AND 7 of the Health - General Article.

35 2. The carrier is not required, in providing the plan under
36 this subparagraph, to offer any other benefit otherwise required under Title 19,
37 Subtitle 7 of the Health - General Article or Subtitle 8 of this title.

38 (iv) The Health Services Cost Review Commission shall annually
39 assess any carrier other than the carrier described under subparagraph (iii) of this
40 paragraph for the carrier's contribution and shall transfer the contribution to the

1 Treasurer of the State, for payment into the Short-Term Prescription Drug Subsidy
2 Fund created under § 15-604 of the Health - General Article.

3 (v) If a carrier withdraws from the substantial, affordable, and
4 available coverage program, the Commission shall recalculate the contributions to the
5 prescription drug subsidy plan for the remaining carriers.

6 **Article - Health - General**

7 SUBTITLE 7. SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN FOR URBAN AND
8 RURAL COUNTIES.

9 15-701.

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) "CARRIER" MEANS:

13 (1) AN AUTHORIZED INSURER;

14 (2) A NONPROFIT HEALTH SERVICE PLAN;

15 (3) A HEALTH MAINTENANCE ORGANIZATION;

16 (4) A MANAGED CARE ORGANIZATION;

17 (5) A DENTAL PLAN ORGANIZATION; OR

18 (6) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS
19 SUBJECT TO REGULATION BY THE STATE.

20 (C) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO:

21 (1) IS A RESIDENT OF MARYLAND AND AT LEAST 65 YEARS OF AGE;

22 (2) IS ELIGIBLE FOR MEDICARE PLUS CHOICE, AS DEFINED UNDER
23 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT, AS AMENDED;

24 (3) RESIDES IN A MEDICALLY UNDERSERVED URBAN OR RURAL COUNTY
25 OR PORTION OF A MEDICALLY UNDERSERVED URBAN OR RURAL COUNTY;

26 (4) PAYS THE PREMIUM FOR MEDICARE PART "B", AS REQUIRED BY
27 TITLE XVIII OF THE SOCIAL SECURITY ACT, AS AMENDED;

28 (5) IS NOT ENROLLED IN A MEDICARE PLUS CHOICE MANAGED CARE
29 PROGRAM THAT PROVIDES PRESCRIPTION DRUG BENEFITS AT THE TIME THAT THE
30 INDIVIDUAL APPLIES FOR ENROLLMENT IN THE PLAN; AND

31 (6) PAYS THE PREMIUM, CO-PAYMENTS, AND DEDUCTIBLES FOR THE
32 PLAN.

1 (D) "ENROLLEE" MEANS AN INDIVIDUAL ENROLLED IN THE PLAN.

2 (E) "FUND" MEANS THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN
3 FUND CREATED UNDER § 15-604 OF THIS TITLE.

4 (F) "MEDICALLY UNDERSERVED URBAN OR RURAL COUNTY" MEANS ANY OF
5 THE FOLLOWING COUNTIES:

6 (1) ANNE ARUNDEL COUNTY;

7 (2) BALTIMORE CITY;

8 (3) BALTIMORE COUNTY;

9 (4) HARFORD COUNTY;

10 (5) HOWARD COUNTY;

11 (6) MONTGOMERY COUNTY; OR

12 (7) PRINCE GEORGE'S COUNTY.

13 (G) "PORTION OF A COUNTY" MEANS A GEOGRAPHIC PART OF A MEDICALLY
14 UNDERSERVED URBAN OR RURAL COUNTY THAT WAS SERVED BY A MEDICARE PLUS
15 CHOICE MANAGED CARE PROVIDER PRIOR TO JANUARY 1, 2001, AND IS NO LONGER
16 SERVED.

17 (H) "PLAN" MEANS THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN
18 FOR URBAN AND RURAL COUNTIES ESTABLISHED UNDER THIS SUBTITLE.

19 15-702.

20 (A) A CARRIER THAT IS REQUIRED TO PROVIDE THE SHORT-TERM
21 PRESCRIPTION DRUG SUBSIDY PLAN FOR URBAN AND RURAL COUNTIES UNDER §
22 15-606(C) OF THE INSURANCE ARTICLE SHALL:

23 (1) SIGN A CONTRACT WITH THE SECRETARY AGREEING TO PROVIDE
24 PRESCRIPTION DRUG BENEFITS TO ELIGIBLE INDIVIDUALS FOR A PERIOD OF 1 YEAR;

25 (2) EXCEPT AS OTHERWISE REQUIRED UNDER STATE OR FEDERAL LAW,
26 AGREE NOT TO ALTER THE LEVEL OR TYPES OF BENEFITS PROVIDED UNDER THE
27 PLAN THROUGHOUT THE PERIOD OF THE CONTRACT;

28 (3) AGREE TO HOLD ENROLLEE PREMIUMS AT THE SAME LEVEL
29 THROUGHOUT THE PERIOD OF THE CONTRACT;

30 (4) AGREE TO CONTINUE TO SERVE AT LEAST THE SAME MEDICALLY
31 UNDERSERVED URBAN AND RURAL COUNTIES OR PORTIONS OF MEDICALLY
32 UNDERSERVED URBAN AND RURAL COUNTIES THROUGHOUT THE PERIOD OF THE
33 CONTRACT; AND

1 (5) MAKE ALL PERFORMANCE REVIEW AND FINANCIAL RECORDS
2 AVAILABLE FOR REVIEW BY THE SECRETARY AND THE MARYLAND INSURANCE
3 ADMINISTRATION.

4 (B) THE CARRIER IS NOT REQUIRED, IN PROVIDING THE PLAN, TO OFFER ANY
5 OTHER BENEFIT OTHERWISE REQUIRED UNDER TITLE 19, SUBTITLE 7 OF THIS
6 ARTICLE OR TITLE 15, SUBTITLE 8 OF THIS ARTICLE.

7 15-703.

8 (A) THE PLAN PROVIDED UNDER THIS SUBTITLE SHALL:

9 (1) THROUGHOUT THE CONTRACT PERIOD, PROVIDE BENEFITS TO NOT
10 MORE THAN 15,000 ENROLLEES, INCLUSIVE OF THOSE ELIGIBLE INDIVIDUALS
11 UNDER § 15-601 OF THIS TITLE, AT ANY ONE TIME WHO ARE ELIGIBLE INDIVIDUALS
12 AND WHO RESIDE IN ANY OF THE MEDICALLY UNDERSERVED URBAN AND RURAL
13 COUNTIES OR PORTIONS OF MEDICALLY UNDERSERVED URBAN AND RURAL
14 COUNTIES;

15 (2) SET THE MONTHLY PREMIUM CHARGED AN ENROLLEE AT \$30;

16 (3) SET THE DEDUCTIBLE CHARGED AN ENROLLEE AT \$50 PER YEAR PER
17 INDIVIDUAL;

18 (4) LIMIT THE CO-PAY CHARGED AN ENROLLEE TO:

19 (I) \$10 FOR A PRESCRIPTION FOR A GENERIC DRUG;

20 (II) \$20 FOR A PRESCRIPTION FOR A PREFERRED BRAND NAME
21 DRUG; AND

22 (III) \$35 FOR A PRESCRIPTION FOR A NONPREFERRED BRAND NAME
23 DRUG; AND

24 (5) LIMIT THE TOTAL ANNUAL BENEFIT TO \$1,000 PER INDIVIDUAL.

25 (B) THE PLAN MAY INCLUDE A RESTRICTED FORMULARY OF EXPERIMENTAL
26 DRUGS NOT APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR
27 GENERAL USE THAT WILL NOT BE REIMBURSED.

28 (C) (1) UNDER THE PLAN THE CARRIER MAY ENROLL ONLY ELIGIBLE
29 INDIVIDUALS WHO WERE:

30 (I) ENROLLED ON OR BEFORE DECEMBER 31, 2000 IN MEDICARE
31 PLUS CHOICE MANAGED CARE PROGRAMS IN A MEDICALLY UNDERSERVED URBAN
32 OR RURAL COUNTY OR PORTION OF A MEDICALLY UNDERSERVED URBAN OR RURAL
33 COUNTY LISTED UNDER § 15-701(F) OF THIS SUBTITLE; AND

34 (II) AFTER DECEMBER 31, 2000, CEASED TO BE ENROLLED IN THOSE
35 PLANS.

1 (2) THE CARRIER SHALL WORK WITH THE SECRETARY AND THE
2 MARYLAND DEPARTMENT OF AGING TO PROVIDE NOTICE, THROUGH THE WRITTEN
3 AND ELECTRONIC MEDIA AND OTHER MEANS, TO ELIGIBLE INDIVIDUALS OF THE
4 AVAILABILITY OF THE PLAN.

5 15-704.

6 (A) THIS PROGRAM SHALL BE FUNDED BY THE SHORT-TERM PRESCRIPTION
7 DRUG SUBSIDY PLAN FUND ESTABLISHED UNDER § 15-604 OF THIS ARTICLE.

8 (B) THE TOTAL ALLOWABLE EXPENSE FOR:

9 (1) THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE; AND

10 (2) THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PROGRAM
11 ESTABLISHED UNDER § 15-601 OF THIS TITLE SHALL BE:

12 (I) THE SUM OF THE REMAINING BALANCE ON JUNE 30, 2001 IN
13 THE SHORT-TERM PRESCRIPTION DRUG SUBSIDY PLAN FUND ESTABLISHED UNDER §
14 15-604 OF THIS TITLE; AND

15 (II) THE ASSESSMENT FOR 2001 AGAINST CARRIERS MADE UNDER
16 THE PROVISION OF § 15-606(C) OF THE INSURANCE ARTICLE.

17 (C) AT THE END OF JUNE 30, 2002 ANY BALANCE HELD BY THE CARRIER
18 DESCRIBED UNDER § 15-606(C)(2)(III) OF THE INSURANCE ARTICLE SHALL BE
19 DEPOSITED INTO THE FUND ESTABLISHED UNDER § 15-604 OF THIS TITLE.

20 15-705.

21 (A) ON OR BEFORE JUNE 30, 2002, THE SECRETARY, THE MARYLAND HEALTH
22 SERVICES COST REVIEW COMMISSION, AND THE MARYLAND INSURANCE
23 ADMINISTRATION SHALL SUBMIT A JOINT REPORT TO THE GOVERNOR AND, IN
24 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
25 GENERAL ASSEMBLY, THAT INCLUDES A SUMMARY OF THE PROGRAM ACTIVITIES
26 AND EXPENSES FOR THE YEAR UNDER SUBTITLES 6 AND 7 OF THIS TITLE AND ANY
27 RECOMMENDATIONS FOR CONSIDERATION BY THE GENERAL ASSEMBLY.

28 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
29 PROVISIONS OF THIS SUBTITLE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Health Services Cost
31 Review Commission may not take steps to eliminate or adjust the differential in
32 hospital rates provided to carriers who provide a substantial, affordable, and
33 available product in the nongroup market, under § 15-606 of the Insurance Article
34 and the regulations of the Commission, as those rates were in effect on January 1,
35 2000, until the later of the termination of the Short-Term Prescription Drug Subsidy
36 Plan for Urban and Rural Counties created under this Act or the end of June 30, 2002.

1 SECTION 3. AND BE IT FURTHER ENACTED, That if the Secretary of Health
2 and Mental Hygiene is notified by the federal Health Care Financing Administration
3 that any provisions of the Short-Term Prescription Drug Subsidy Plan for Urban and
4 Rural Counties or of this Act will invalidate the Maryland Medicare Waiver or cause
5 a reduction of the State's eligibility for federal funding of Medicaid, the Secretary may
6 suspend the provision of the Short-Term Prescription Drug Subsidy Plan for Urban
7 and Rural Counties or the provision of this Act that is the subject of the notification.

8 SECTION 4. AND BE IT FURTHER ENACTED, That a presently existing
9 obligation or contract right may not be impaired in any way by this Act.

10 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2001. On the earlier of the end of June 30, 2002, or the availability of
12 comparable prescription pharmacy benefits provided by Medicare under Title XVIII of
13 the Social Security Act, as amended, with no further action required by the General
14 Assembly, this Act shall be abrogated and of no further force and effect. If comparable
15 prescription pharmacy benefits are provided by Medicare under Title XVIII of the
16 Social Security Act, the Secretary of Health and Mental Hygiene shall notify the
17 Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 not
18 later than 90 days before prescription drug benefits are to be provided.