

HOUSE BILL 1042

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2001 Regular Session
1lr1447

By: ~~Delegates Busch and Taylor~~, Taylor, Barve, Brown, Donoghue, Eckardt,
Goldwater, Harrison, Hurson, Kach, Kirk, Krysiak, Love, Moe,
Pendergrass, and Walkup

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2001

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Insurance and Assistance Fund**

3 FOR the purpose of establishing the Maryland Health Insurance and Assistance
4 Fund; specifying the purpose of the Fund; declaring the intent of the General
5 Assembly; establishing a Board for the Fund; providing for the members and
6 officers of the Board; authorizing the ~~Governor~~ Speaker of the House and
7 President of the Senate to remove a Board member for certain reasons;
8 specifying the terms of the initial members of the Board; requiring the Board to
9 appoint an executive director; specifying the duties of the executive director;
10 authorizing the Executive Director in consultation with the Board to set
11 compensation for certain employees; specifying certain policies and procedures
12 for the Board; specifying the duties of the Board; exempting the Fund and the
13 Board from certain requirements of law; specifying the contents of a certain plan
14 of operation; specifying certain powers and authority of the Fund; requiring the
15 Board to submit a certain annual report to the Governor and the General
16 Assembly; establishing certain immunity for the Board; specifying the contents
17 of the Fund; requiring the Board to use the Fund to pay certain expenses;
18 specifying that the Fund is subject to certain laws in a certain manner;
19 requiring the Board to ensure that Fund enrollment does not exceed a certain
20 financial capacity; requiring the Board to establish certain premium rates;
21 requiring the Board to determine a certain rate risk; providing that a certain
22 premium rate cannot exceed a certain amount; providing that certain losses will
23 be subsidized in a certain manner; establishing certain eligibility criteria;
24 providing for the termination of certain coverage; establishing that it is
25 unlawful for certain persons to refer a certain employee to the Fund for a certain
26 purpose; authorizing the Board to establish a certain low-income subsidy

program; establishing the criteria for a certain low-income subsidy program; requiring the Board to adopt certain regulations; authorizing the Board to select a certain administrator to perform certain functions; requiring the Board to use certain criteria in selecting a certain administrator; providing that a certain administrator is subject to removal for certain reasons; requiring a certain administrator to submit certain reports; requiring the Board to establish or adopt a certain set of uniform benefits; providing that a certain benefit package may exclude certain requirements; establishing a certain preexisting condition exclusion; providing that certain individuals are not subject to a certain exclusion; authorizing the Fund to assess certain health insurance carriers for certain funds; providing for the calculation of a certain assessment; requiring certain excess assessment funds to be held and used by the Fund in a certain manner; requiring certain carriers to file certain statements and reports with the Board; providing for the abatement or deferment of an assessment under certain circumstances; specifying the time period during which a certain carrier is liable to the Fund for a certain deficiency; requiring a certain regulating entity to ensure that certain assets are distributed to the Fund; repealing the authority of the Insurance Commissioner to determine that a certain vote is not required as part of a certain transaction; eliminating a requirement that the Maryland Insurance Administration consider certain criteria in determining whether to approve a certain acquisition; exempting the Fund from a certain tax; repealing certain provisions of law that relate to the Short-Term Prescription Drug Subsidy Plan; providing for the termination of a certain substantial, available, and affordable coverage program; requiring the Fund to begin enrolling certain individuals on or before a certain date; requiring the Board to repay a certain appropriation at a certain time; terminating enrollment in a certain short-term prescription drug subsidy program; providing for the termination of a certain short-term prescription drug subsidy program; requiring a certain carrier to provide a certain notice; providing for a delayed effective date for portions of the Act; defining certain terms; and generally relating to health benefits for low-income and medically uninsurable individuals.

~~BY repealing~~

~~Article - Health - General~~

~~Section 15-601 through 15-605, inclusive, and the subtitle "Subtitle 6-~~

~~Short-Term Prescription Drug Subsidy Plan"~~

~~Annotated Code of Maryland~~

~~(2000 Replacement Volume)~~

~~BY repealing~~

~~Chapter 565 of the Acts of the General Assembly of 2000~~

~~Section 2, 3, 4, and 5~~

BY repealing and reenacting, with amendments,

Article - Insurance

Section 6-101(b)

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

3 ~~BY repealing~~

4 ~~Article - Insurance~~
5 ~~Section 15-606(e)~~
6 ~~Annotated Code of Maryland~~
7 ~~(1997 Volume and 2000 Supplement)~~

8 ~~BY repealing and reenacting, with amendments,~~

9 ~~Article - Insurance~~
10 ~~Section 6-101~~
11 ~~Annotated Code of Maryland~~
12 ~~(1997 Volume and 2000 Supplement)~~
13 ~~(As enacted by Section 3 of this Act)~~

14 BY adding to

15 Article - Insurance
16 Section 14-501 through ~~14-517~~ 14-518, inclusive, to be under the new subtitle
17 "Subtitle 5. Maryland Health Insurance and Assistance Fund"
18 Annotated Code of Maryland
19 (1997 Volume and 2000 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - State Finance and Procurement
22 Section 11-203(a)(1)
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article - State Government
27 Section 6.5-301 and 6.5-303
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2000 Supplement)

30 ~~BY repealing and reenacting, with amendments,~~

31 ~~Article - Health - General~~
32 ~~Section 19-103(e) and 19-219~~
33 ~~Annotated Code of Maryland~~
34 ~~(2000 Replacement Volume)~~

35 ~~BY repealing~~

36 ~~Article - Insurance~~

1 ~~Section 15-606~~
2 ~~Annotated Code of Maryland~~
3 ~~(1997 Volume and 2000 Supplement)~~
4 ~~(As enacted by Section 3 of this Act)~~

5 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
6 ~~MARYLAND, That Section(s) 15-601 through 15-605, inclusive, and the subtitle~~
7 ~~"Subtitle 6. Short Term Prescription Drug Subsidy Plan" of Article - Health -~~
8 ~~General of the Annotated Code of Maryland be repealed.~~

9 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2, 3, 4, and 5 of~~
10 ~~Chapter 565 of the Acts of the General Assembly of 2000 be repealed.~~

11 ~~SECTION 3. 1. AND BE IT FURTHER ENACTED BY THE GENERAL~~
12 ~~ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:~~

13 **Article - Insurance**

14 6-101.

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

16 (1) a nonprofit health service plan corporation;

17 (2) a fraternal benefit society;

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

20 (4) a surplus lines broker, who is subject to taxation in accordance with
21 Title 3, Subtitle 3 of this article; ~~OR~~

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

24 (6) the Short-Term Prescription Drug Subsidy Plan created under Title
25 15, Subtitle 6 of the Health - General Article; OR

26 (7) THE MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND
27 ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

28 ~~15-606.~~

29 ~~[(c) (1) In addition to the requirements imposed under subsection (b) of this~~
30 ~~section, a carrier may not receive the approved purchaser differential unless the~~
31 ~~carrier contributes, as provided in paragraph (2) of this subsection, to the Short-Term~~
32 ~~Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the Health -~~
33 ~~General Article.~~

1 (2) (i) The total contributions to be made to the Short Term
2 Prescription Drug Subsidy Plan by all carriers participating in the substantial,
3 affordable, and available coverage differential program shall be \$5.4 million per year.

4 (ii) 1. Each carrier participating in the substantial, affordable,
5 and available coverage differential program shall contribute an amount to the
6 Short Term Prescription Drug Subsidy Plan that is equal to the total derived by
7 multiplying \$5.4 million by the percentage of the total benefit to all carriers from the
8 substantial, affordable, and available coverage differential that the carrier receives on
9 January 1, 2000.

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

13 (iii) 1. The last carrier to provide Medicare Plus Choice coverage
14 in medically underserved counties or portions of counties shall use an amount equal
15 to the contribution derived under subparagraph (ii) of this paragraph to provide the
16 Short Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the
17 Health General Article.

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

21 (iv) The Health Services Cost Review Commission shall annually
22 assess any carrier other than the carrier described under subparagraph (iii) of this
23 paragraph for the carrier's contribution and shall transfer the contribution to the
24 Treasurer of the State, for payment into the Short Term Prescription Drug Subsidy
25 Fund created under § 15-604 of the Health General Article.

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

29 SECTION 4. 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Article Insurance**

32 ~~6-101.~~

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

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

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

37 (3) the Maryland Automobile Insurance Fund; and

(4) ~~a credit indemnity company.~~

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

(1) ~~a nonprofit health service plan corporation;~~

(2) ~~a fraternal benefit society;~~

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

(4) ~~a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article; [or]~~

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

(6) ~~THE MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.~~

SUBTITLE 5. MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND.

14-501.

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

(B) "ADMINISTRATOR" MEANS A PERSON THAT IS REGISTERED AS AN ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE.

(C) "BOARD" MEANS THE BOARD FOR THE MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND.

(D) "CARRIER" MEANS:

(1) AN AUTHORIZED INSURER THAT PROVIDES HEALTH INSURANCE IN THE STATE;

(2) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE;

(3) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE; OR

(4) EXCEPT FOR A MANAGED CARE ORGANIZATION, AS DEFINED IN TITLE 15, SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE, ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO STATE INSURANCE REGULATION.

(E) "FUND" MEANS THE MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND.

1 (F) "PLAN OF OPERATION" MEANS THE ARTICLES, BYLAWS, AND OPERATING
2 RULES AND PROCEDURES ADOPTED BY THE BOARD IN ACCORDANCE WITH § 14-508
3 OF THIS SUBTITLE.

4 14-502.

5 (A) THERE IS A MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND.

6 (B) THE FUND IS ~~AN INDEPENDENT UNIT THAT FUNCTIONS IN THE~~
7 ~~ADMINISTRATION OF ALL STATE UNITS.~~

8 (C) THE PURPOSE OF THE FUND IS TO DECREASE UNCOMPENSATED CARE
9 COSTS BY PROVIDING ACCESS TO AFFORDABLE, COMPREHENSIVE HEALTH
10 BENEFITS TO MEDICALLY UNINSURABLE AND LOW-INCOME RESIDENTS OF THE
11 STATE.

12 (D) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE FUND OPERATE
13 AS A NONPROFIT ENTITY AND THAT FUND REVENUE, TO THE EXTENT CONSISTENT
14 WITH GOOD BUSINESS PRACTICES, SHALL INURE:

15 (1) FIRST TO THE BENEFIT OF MEDICALLY UNINSURABLE ENROLLEES
16 BY SUBSIDIZING INSURANCE LOSSES INCURRED BY THIS POPULATION; AND

17 (2) SECOND TO THE BENEFIT OF LOW-INCOME ENROLLEES WHO ARE
18 INELIGIBLE FOR OTHER PUBLICALLY FUNDED HEALTH BENEFITS BY SUBSIDIZING
19 PREMIUM RATES FOR THIS POPULATION.

20 14-503.

21 (A) THERE IS A BOARD FOR THE MARYLAND HEALTH INSURANCE AND
22 ASSISTANCE FUND.

23 (B) THE FUND OPERATES SUBJECT TO THE SUPERVISION AND CONTROL OF
24 THE BOARD.

25 14-504.

26 (A) THE BOARD CONSISTS OF 9 MEMBERS, OF WHOM:

27 (1) ~~ONE SHALL BE THE COMMISSIONER; SEVEN SHALL BE APPOINTED~~
28 ~~JOINTLY BY THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE SENATE IN~~
29 ~~ACCORDANCE WITH SUBSECTION (B)(1) OF THIS SECTION; AND~~

30 (2) TWO SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE
31 AND CONSENT OF THE SENATE IN ACCORDANCE WITH SUBSECTION (B)(2) OF THIS
32 SECTION.

33 (2) ~~ONE SHALL BE THE EXECUTIVE DIRECTOR OF THE MARYLAND~~
34 ~~HEALTH CARE COMMISSION;~~

1 (3) ~~ONE SHALL BE THE EXECUTIVE DIRECTOR OF THE STATE HEALTH~~
2 ~~SERVICES COST REVIEW COMMISSION;~~

3 (4) ~~THREE SHALL BE KNOWLEDGEABLE ABOUT THE BUSINESS OF~~
4 ~~INSURANCE, BUT NOT OFFICERS OR EMPLOYEES OF A CARRIER DOING BUSINESS IN~~
5 ~~THE STATE OR CONSULTANTS TO A CARRIER DOING BUSINESS IN THE STATE;~~

6 (5) ~~ONE SHALL BE AN INDIVIDUAL ENGAGED IN THE MANAGEMENT OR~~
7 ~~ADMINISTRATION OF EMPLOYEE HEALTH BENEFITS ON BEHALF OF AN EMPLOYER~~
8 ~~IN THE STATE WITH FEWER THAN 100 EMPLOYEES;~~

9 (6) ~~ONE SHALL REPRESENT ORGANIZED LABOR; AND~~

10 (7) ~~ONE SHALL BE A CONSUMER MEMBER WHO DOES NOT HAVE A~~
11 ~~SUBSTANTIAL FINANCIAL INTEREST IN A PERSON REGULATED UNDER THIS~~
12 ~~ARTICLE.~~

13 (B) (1) ~~OF THE MEMBERS APPOINTED JOINTLY BY THE SPEAKER OF THE~~
14 ~~HOUSE AND THE PRESIDENT OF THE SENATE:~~

15 (I) ~~FOUR SHALL BE KNOWLEDGEABLE ABOUT THE BUSINESS OF~~
16 ~~INSURANCE, BUT NOT OFFICERS OR EMPLOYEES OF A CARRIER DOING BUSINESS IN~~
17 ~~THE STATE OR CONSULTANTS TO A CARRIER DOING BUSINESS IN THE STATE;~~

18 (II) ~~ONE SHALL BE AN INDIVIDUAL ENGAGED IN THE~~
19 ~~MANAGEMENT OR ADMINISTRATION OF EMPLOYEE HEALTH BENEFITS ON BEHALF~~
20 ~~OF AN EMPLOYER IN THE STATE WITH FEWER THAN 100 EMPLOYEES;~~

21 (III) ~~ONE SHALL BE A SMALL BUSINESS OWNER WHO MAINTAINS~~
22 ~~EMPLOYEE HEALTH INSURANCE COVERAGE IN THE SMALL GROUP MARKET IN~~
23 ~~ACCORDANCE WITH THE PROVISIONS OF TITLE 15, SUBTITLE 12 OF THIS ARTICLE;~~
24 ~~AND~~

25 (IV) ~~ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR.~~

26 (2) ~~EACH OF THE TWO MEMBERS OF THE BOARD APPOINTED BY THE~~
27 ~~GOVERNOR SHALL BE A CONSUMER WHO DOES NOT HAVE A SUBSTANTIAL~~
28 ~~FINANCIAL INTEREST IN A PERSON REGULATED UNDER THIS ARTICLE.~~

29 (B) ~~EXCEPT FOR THE EX OFFICIO MEMBERS, THE MEMBERS OF THE BOARD~~
30 ~~SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE~~
31 ~~SENATE.~~

32 (C) (1) ~~EXCEPT FOR THE EX OFFICIO MEMBERS, THE THE~~ TERM OF A
33 MEMBER IS 4 YEARS.

34 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
35 THE TERMS PROVIDED FOR MEMBERS ON JULY 1, 2001.

1 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
2 SUCCESSOR IS APPOINTED AND QUALIFIES.

3 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
4 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
5 QUALIFIES.

6 (D) ~~THE GOVERNOR~~ SPEAKER AND THE PRESIDENT MAY REMOVE A MEMBER
7 FOR NEGLECT OF DUTY, INCOMPETENCE, OR MISCONDUCT.

8 14-505.

9 (A) ~~THE GOVERNOR~~ SPEAKER AND THE PRESIDENT SHALL JOINTLY APPOINT
10 THE CHAIRMAN OF THE BOARD FROM AMONG ITS MEMBERS.

11 (B) THE CHAIRMAN MAY APPOINT A VICE CHAIRMAN OF THE BOARD FROM
12 AMONG ITS MEMBERS.

13 14-506.

14 (A) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL BE
15 THE CHIEF ADMINISTRATIVE OFFICER OF THE FUND.

16 (B) THE EXECUTIVE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE
17 BOARD.

18 (C) THE BOARD SHALL DETERMINE THE APPROPRIATE COMPENSATION FOR
19 THE EXECUTIVE DIRECTOR.

20 (D) UNDER THE DIRECTION OF THE BOARD, THE EXECUTIVE DIRECTOR
21 SHALL PERFORM ANY DUTY OR FUNCTION THAT IS NECESSARY FOR THE OPERATION
22 OF THE FUND.

23 14-507.

24 (A) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTES A QUORUM.

25 (B) THE BOARD SHALL MEET AT LEAST FOUR TIMES EACH YEAR, AT THE
26 TIMES AND PLACES THAT IT DETERMINES.

27 (C) (1) EACH MEMBER OF THE BOARD, ~~EXCEPT FOR AN EX OFFICIO~~
28 ~~MEMBER~~, IS ENTITLED TO COMPENSATION IN ACCORDANCE WITH THE BOARD'S
29 BUDGET.

30 (2) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT
31 FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED
32 IN THE BOARD'S BUDGET.

33 (D) (1) THE BOARD MAY EMPLOY A STAFF.

34 (2) EMPLOYEES OF THE FUND ARE SPECIAL APPOINTMENTS.

1 (3) ~~THE BOARD EXECUTIVE DIRECTOR, SUBJECT TO THE APPROVAL OF~~
2 ~~THE BOARD,~~ SHALL SET COMPENSATION FOR ~~ITS~~ EMPLOYEES OF THE FUND.

3 (E) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE,
4 THE BOARD SHALL:

5 (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;

6 (2) PREPARE AND SUBMIT TO THE COMMISSIONER FOR APPROVAL A
7 PLAN OF OPERATION THAT CONTAINS THE INFORMATION SPECIFIED UNDER § 14-508
8 OF THIS SECTION;

9 (3) KEEP MINUTES OF EACH MEETING; AND

10 (4) PREPARE ANNUALLY A BUDGET THAT INCLUDES THE ESTIMATED
11 INCOME OF THE BOARD AND PROPOSED EXPENSES FOR ITS ADMINISTRATION AND
12 OPERATION.

13 (F) THE BOARD IS NOT SUBJECT TO:

14 (1) THE OPEN MEETINGS ACT ESTABLISHED UNDER TITLE 10, SUBTITLE
15 5 OF THE STATE GOVERNMENT ARTICLE; OR

16 (2) ~~STATE PROCUREMENT REQUIREMENTS AS PROVIDED UNDER §~~
17 ~~11-203 OF THE STATE FINANCE AND PROCUREMENT ARTICLE~~ THE PROVISIONS OF
18 THE STATE FINANCE AND PROCUREMENT ARTICLE, THE PROVISIONS OF DIVISION I
19 OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE
20 PERSONNEL MANAGEMENT SYSTEM, THE PROVISIONS OF DIVISION II AND TITLE 37
21 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, AND THE PROVISIONS OF
22 ARTICLE 78A OF THE CODE.

23 14-508.

24 (A) THE PLAN OF OPERATION SHALL:

25 (1) ESTABLISH PROCEDURES FOR OPERATION OF THE FUND;

26 (2) ESTABLISH PROCEDURES FOR SELECTING AN ADMINISTRATOR IN
27 ACCORDANCE WITH § 14-515 OF THIS SUBTITLE;

28 (3) ESTABLISH PROCEDURES FOR THE HANDLING, ACCOUNTING AND
29 AUDITING OF ASSETS, MONIES AND CLAIMS OF THE FUND AND THE FUND
30 ADMINISTRATOR;

31 (4) DEVELOP AND IMPLEMENT A PROGRAM TO PUBLICIZE THE
32 EXISTENCE OF THE FUND, THE ELIGIBILITY REQUIREMENTS, AND PROCEDURES FOR
33 ENROLLMENT;

34 (5) ESTABLISH AN INTERNAL GRIEVANCE PROCESS IN ACCORDANCE
35 WITH THE REQUIREMENTS OF § 15-10A-02 OF THIS ARTICLE; AND

1 (6) PROVIDE FOR OTHER MATTERS AS MAY BE NECESSARY AND PROPER
2 FOR THE EXECUTION OF THE BOARD'S POWERS, DUTIES AND OBLIGATIONS UNDER
3 THIS SUBTITLE.

4 (B) THE FUND SHALL HAVE THE GENERAL POWERS AND AUTHORITY
5 GRANTED TO A HEALTH INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY
6 UNDER THIS ARTICLE AND IN ADDITION, THE SPECIFIC AUTHORITY TO:

7 (1) ENTER INTO CONTRACTS AS ARE NECESSARY OR PROPER TO CARRY
8 OUT THE PROVISIONS AND PURPOSES OF THIS SUBTITLE;

9 (2) ENTER INTO CONTRACTS WITH SIMILAR FUNDS IN THIS OR OTHER
10 STATES FOR THE JOINT PERFORMANCE OF COMMON ADMINISTRATIVE FUNCTIONS;

11 (3) SUE OR BE SUED, INCLUDING TAKING LEGAL ACTIONS NECESSARY
12 OR PROPER TO RECOVER AND COLLECT ASSESSMENTS DUE THE FUND;

13 (4) TAKE SUCH LEGAL ACTION AS IS NECESSARY:

14 (I) TO AVOID THE PAYMENT OF IMPROPER CLAIMS AGAINST THE
15 FUND OR THE COVERAGE PROVIDED BY OR THROUGH THE FUND;

16 (II) TO RECOVER ANY AMOUNTS ERRONEOUSLY OR IMPROPERLY
17 PAID BY THE FUND;

18 (III) TO RECOVER ANY AMOUNTS PAID BY THE FUND AS A RESULT
19 OF MISTAKE OF FACT OR LAW; OR

20 (IV) TO RECOVER OTHER AMOUNTS DUE THE FUND;

21 (5) ISSUE POLICIES OF INSURANCE IN ACCORDANCE WITH THE
22 REQUIREMENTS OF THIS SUBTITLE;

23 (6) APPOINT COMMITTEES AS NECESSARY TO PROVIDE TECHNICAL
24 ASSISTANCE IN THE OPERATION OF THE FUND;

25 (7) BORROW MONEY NECESSARY TO CARRY OUT THE PURPOSES OF THE
26 FUND;

27 (8) EMPLOY AND FIX THE COMPENSATION OF EMPLOYEES;

28 (9) CREATE AND DISTRIBUTE CERTIFICATE OF ELIGIBILITY FORMS AND
29 ENROLLMENT INSTRUCTION FORMS TO LICENSED INSURANCE PRODUCERS AND TO
30 THE GENERAL PUBLIC;

31 (10) PROVIDE FOR REINSURANCE OF RISKS INCURRED BY THE FUND;

32 (11) ESTABLISH RULES, CONDITIONS, AND PROCEDURES FOR
33 REINSURING RISKS OF PARTICIPATING INSURERS IF THE BOARD CHOOSES TO
34 AUTHORIZE COMMERCIAL INSURERS TO ISSUE FUND COVERAGE;

1 (12) ~~ISSUE ADDITIONAL TYPES OF HEALTH INSURANCE POLICIES TO~~
2 ~~PROVIDE OPTIONAL COVERAGES AT NONSUBSIDIZED RATES, INCLUDING MEDICARE~~
3 ~~SUPPLEMENTAL HEALTH INSURANCE IN ACCORDANCE WITH THE PROVISIONS OF~~
4 ~~TITLE 15, SUBTITLE 9 OF THIS ARTICLE AND SMALL EMPLOYER GROUP MARKET~~
5 ~~INSURANCE IN ACCORDANCE WITH TITLE 15, SUBTITLE 12 OF THIS ARTICLE ASSESS~~
6 ~~CARRIERS IN ACCORDANCE WITH § 14-518 OF THIS SUBTITLE FOR LOSSES INCURRED~~
7 ~~BY THE FUND;~~

8 (13) PROVIDE FOR AND EMPLOY COST CONTAINMENT MEASURES
9 INCLUDING PREADMISSION SCREENING, SECOND SURGICAL OPINION, CONCURRENT
10 UTILIZATION REVIEW, AND INDIVIDUAL CASE MANAGEMENT;

11 (14) DESIGN, UTILIZE, CONTRACT, OR OTHERWISE ARRANGE FOR THE
12 DELIVERY OF COST EFFECTIVE HEALTH CARE SERVICES, INCLUDING ESTABLISHING
13 OR CONTRACTING WITH PREFERRED PROVIDER ORGANIZATIONS, HEALTH
14 MAINTENANCE ORGANIZATIONS, AND OTHER LIMITED NETWORK PROVIDER
15 ARRANGEMENTS; AND

16 (15) ADOPT BYLAWS, POLICIES, AND PROCEDURES NECESSARY OR
17 PROPER TO OPERATE THE FUND.

18 (C) THE BOARD SHALL MAKE AN ANNUAL REPORT TO THE GOVERNOR AND TO
19 THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE
20 GOVERNMENT ARTICLE SUMMARIZING THE ACTIVITIES OF THE FUND FOR THE
21 PRECEDING CALENDAR YEAR, INCLUDING:

22 (1) NET WRITTEN AND EARNED PREMIUMS;

23 (2) FUND ENROLLMENT;

24 (3) ADMINISTRATIVE EXPENSES;

25 (4) PAID AND INCURRED LOSSES; AND

26 (5) A SUMMARY OF GRIEVANCES FILED BY FUND ENROLLEES AND THE
27 RESOLUTIONS OF THOSE GRIEVANCES.

28 (D) (1) THE BOARD AND ITS EMPLOYEES MAY NOT BE HELD LIABLE FOR
29 ANY OBLIGATIONS OF THE FUND.

30 (2) A MEMBER OR EMPLOYEE OF THE BOARD MAY NOT BE HELD LIABLE
31 FOR AN ACT OR OMISSION RELATED TO THE PERFORMANCE OF DUTIES UNDER THIS
32 SUBTITLE, UNLESS THE ACT OR OMISSION CONSTITUTES WILLFUL OR WANTON
33 MISCONDUCT.

34 (3) THE BOARD MAY PROVIDE IN ITS BYLAWS OR REGULATIONS FOR
35 INDEMNIFICATION OF, AND LEGAL REPRESENTATION FOR, ITS MEMBERS AND
36 EMPLOYEES.

1 14-509.

2 (A) THE FUND SHALL CONSIST OF:

3 (1) PREMIUMS FOR INSURANCE THAT THE FUND ISSUES;

4 (2) ~~A 1% ASSESSMENT ON THE GROSS ANNUAL REVENUE OF EACH~~
5 ~~ACUTE CARE HOSPITAL IN ACCORDANCE WITH § 19-219 OF THE HEALTH GENERAL~~
6 ~~ARTICLE MONEY FROM ASSESSMENTS LEVIED ON CARRIERS IN ACCORDANCE WITH §~~
7 ~~14-518 OF THIS SUBTITLE;~~

8 (3) PUBLIC OR CHARITABLE ASSETS TRANSFERRED TO THE FUND AS A
9 RESULT OF THE ACQUISITION OF A NONPROFIT HEALTH ENTITY UNDER TITLE 6.5 OF
10 THE STATE GOVERNMENT ARTICLE;

11 (4) INCOME FROM INVESTMENTS THAT THE BOARD MAKES FOR THE
12 FUND;

13 (5) ~~INTERESTS~~ INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY
14 FROM THE FUND; AND

15 (6) MONEY COLLECTED BY THE BOARD AS A RESULT OF LEGAL OR
16 OTHER ACTIONS TAKEN IN ACCORDANCE WITH § 14-508 OF THIS SUBTITLE.

17 (B) THE BOARD SHALL USE THE FUND TO PAY ALL OF THE EXPENSES UNDER
18 THIS SUBTITLE, INCLUDING LOSSES ON INSURANCE THAT THE FUND ISSUES.

19 14-510.

20 THE BOARD SHALL TAKE STEPS NECESSARY TO ENSURE THAT FUND
21 ENROLLMENT DOES NOT EXCEED THE NUMBER OF ENROLLEES THE FUND HAS THE
22 FINANCIAL CAPACITY TO INSURE.

23 14-511.

24 (A) (1) THE BOARD SHALL ESTABLISH PREMIUM RATES FOR FUND
25 COVERAGE SUBJECT TO REVIEW AND APPROVAL BY THE COMMISSIONER.

26 (2) THE BOARD MAY ADOPT SEPARATE PREMIUM RATE SCHEDULES
27 BASED ON:

28 (I) AGE;

29 (II) GENDER; AND

30 (III) GEOGRAPHIC LOCATION IN ONE OF THE FOLLOWING
31 CONTIGUOUS AREAS OF THE STATE:

32 1. THE BALTIMORE METROPOLITAN AREA;

33 2. THE DISTRICT OF COLUMBIA METROPOLITAN AREA;

1 3. WESTERN MARYLAND; OR

2 4. EASTERN AND SOUTHERN MARYLAND.

3 (3) PREMIUM RATES SHALL BE FILED WITH THE COMMISSIONER FOR
4 APPROVAL PRIOR TO USE.

5 (B) (1) THE BOARD SHALL DETERMINE A STANDARD RISK RATE BY
6 CALCULATING THE AVERAGE RATE CHARGED BY INSURERS OFFERING COVERAGES
7 COMPARABLE TO THAT OF THE FUND.

(2) IN DETERMINING A STANDARD RISK RATE, THE BOARD MAY CONSIDER THE RATES THAT APPLY TO THE COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN ESTABLISHED UNDER § 15-1207 OF THIS ARTICLE.

11 (3) THE PREMIUM RATES FOR COVERAGE UNDER THE FUND MAY NOT
12 EXCEED ~~200%~~ 150% OF RATES ESTABLISHED UNDER PARAGRAPH (1) OF THIS
13 SUBSECTION.

14 (4) PREMIUM RATES SHALL BE REASONABLY CALCULATED TO
15 ENCOURAGE ENROLLMENT IN THE FUND.

16 (C) LOSSES INCURRED BY THE FUND SHALL BE SUBSIDIZED BY REVENUE
17 SOURCES, INCLUDING:

18 (1) ASSESSMENT INCOME RECEIVED IN ACCORDANCE WITH § 19-219 OF
19 ~~THE HEALTH GENERAL ARTICLE § 14-518 OF THIS SUBTITLE;~~

20 (2) INCOME EARNED AS A RESULT OF INVESTMENTS MADE BY THE
21 BOARD; AND

22 (3) INTEREST INCOME EARNED BY THE FUND.

23 14-512.

24 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INDIVIDUAL IS
25 ELIGIBLE FOR FUND COVERAGE IF:

26 (I) FOR HEALTH REASONS, AN INSURER HAS REFUSED TO ISSUE
27 SUBSTANTIALLY SIMILAR INSURANCE TO THE INDIVIDUAL WITHIN A TIME FRAME
28 DETERMINED BY THE BOARD;

29 (II) FOR HEALTH REASONS, AN INSURER HAS REFUSED TO ISSUE
30 SUBSTANTIALLY SIMILAR INSURANCE TO THE INDIVIDUAL, WITHIN A TIME FRAME
31 DETERMINED BY THE BOARD, EXCEPT AT A RATE THAT EXCEEDS THE FUND'S RATE;

(III) THE INDIVIDUAL HAS A HISTORY OF, OR SUFFERS FROM, A MEDICAL OR HEALTH CONDITION THAT IS INCLUDED ON A LIST PROMULGATED BY THE BOARD UNDER SUBSECTION (B) OF THIS SECTION;

1 (IV) THE INDIVIDUAL IS CONSIDERED AN ELIGIBLE INDIVIDUAL AS
2 DEFINED UNDER § 15-1301 OF THIS ARTICLE;

3 (V) THE INDIVIDUAL HAS AN ANNUAL HOUSEHOLD INCOME THAT
4 IS AT OR BELOW ~~250%~~ 300% OF THE FEDERAL POVERTY GUIDELINES; OR

5 (VI) THE INDIVIDUAL IS A DEPENDENT OF AN INDIVIDUAL WHO IS
6 ELIGIBLE FOR COVERAGE UNDER THIS SECTION.

7 (2) AN INDIVIDUAL IS NOT ELIGIBLE FOR FUND COVERAGE IF:

8 (I) THE INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER THE
9 FEDERAL MEDICARE PROGRAM, THE MARYLAND MEDICAL ASSISTANCE PROGRAM,
10 OR THE MARYLAND CHILDREN'S HEALTH PROGRAM;

11 (II) THE INDIVIDUAL HAS OR IS ELIGIBLE TO OBTAIN HEALTH
12 INSURANCE COVERAGE SUBSTANTIALLY SIMILAR TO OR MORE COMPREHENSIVE
13 THAN A FUND POLICY AT A RATE THAT IS COMPARABLE TO THE FUND RATE;

14 (III) THE INDIVIDUAL TERMINATED COVERAGE UNDER THE FUND
15 OR WAS TERMINATED FROM COVERAGE UNDER THE FUND DUE TO NONPAYMENT OF
16 PREMIUM WITHIN THE LAST 12 MONTHS;

17 (IV) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
18 THE INDIVIDUAL HAS BEEN A RESIDENT OF THE STATE FOR A PERIOD OF LESS THAN
19 180 DAYS;

20 (V) THE INDIVIDUAL IS AN INMATE OR PATIENT IN A PUBLIC
21 INSTITUTION; OR

22 (VI) THE FUND HAS PAID OUT \$1,000,000 IN BENEFITS ON BEHALF
23 OF THE INDIVIDUAL.

24 (B) THE BOARD SHALL PROMULGATE A LIST OF MEDICAL OR HEALTH
25 CONDITIONS FOR WHICH AN INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER THE
26 FUND WITHOUT FIRST APPLYING FOR INSURANCE.

27 (C) AN INDIVIDUAL WHO SATISFIES THE DEFINITION OF ELIGIBLE
28 INDIVIDUAL UNDER § 15-1301 OF THIS ARTICLE IS EXEMPT FROM THE 180 DAY
29 RESIDENCY REQUIREMENT UNDER SUBSECTION (A)(2)(IV) OF THIS SECTION, BUT
30 STILL MUST BE LEGALLY DOMICILED IN THE STATE.

31 (D) AN INDIVIDUAL WHO CEASES TO MEET THE ELIGIBILITY REQUIREMENTS
32 OF THIS SECTION OR FOR OTHER REASONS AS DETERMINED BY THE BOARD, MAY
33 HAVE COVERAGE TERMINATED BY THE FUND AT THE END OF THE POLICY PERIOD
34 FOR WHICH THE NECESSARY PREMIUMS HAVE BEEN PAID.

1 14-513.

2 IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR AN INSURER,
3 INSURANCE PRODUCER, OR THIRD PARTY ADMINISTRATOR TO REFER AN
4 INDIVIDUAL EMPLOYEE TO THE FUND, OR ARRANGE FOR AN INDIVIDUAL EMPLOYEE
5 TO APPLY TO THE FUND, FOR THE PURPOSE OF SEPARATING THAT EMPLOYEE FROM
6 THE GROUP HEALTH INSURANCE COVERAGE PROVIDED IN CONNECTION WITH THE
7 EMPLOYEE'S EMPLOYMENT.

8 14-514.

9 (A) THE BOARD MAY DEVELOP A LOW-INCOME SUBSIDY PROGRAM, IN
10 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION, UNDER WHICH THE
11 FUND SHALL SUBSIDIZE HEALTH INSURANCE PREMIUMS FOR:

12 (1) AN INDIVIDUAL WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR
13 BELOW ~~250%~~ 300% OF THE FEDERAL POVERTY GUIDELINES AND WHO IS OTHERWISE
14 ELIGIBLE FOR FUND COVERAGE; AND

15 (2) ANY ELIGIBLE DEPENDENTS OF THAT INDIVIDUAL.

16 (B) UNDER THE PROGRAM, THE FUND MAY SUBSIDIZE PREMIUMS FOR:

17 (1) COVERAGE PROVIDED UNDER A POLICY ISSUED BY THE FUND; OR

18 (2) COVERAGE THAT IS AVAILABLE TO AN ELIGIBLE INDIVIDUAL
19 THROUGH AN EMPLOYER-SPONSORED GROUP HEALTH INSURANCE PLAN.

20 (C) THE BOARD SHALL ESTABLISH SUBSIDY LEVELS ON A SLIDING SCALE
21 BASED ON:

22 (1) HOUSEHOLD INCOME;

23 (2) GEOGRAPHIC LOCATION; AND

24 (3) ANY OTHER FACTOR THAT THE BOARD DETERMINES IS RELEVANT.

25 (D) IN DETERMINING AN INDIVIDUAL'S HOUSEHOLD INCOME UNDER THIS
26 SECTION, THE BOARD MAY DISREGARD INCOME THAT WAS SPENT IN THE PAST YEAR
27 ON MEDICALLY NECESSARY GOODS OR SERVICES.

28 (E) PREMIUM SUBSIDIES SHALL BE REASONABLY CALCULATED TO
29 ENCOURAGE PARTICIPATION IN THE PROGRAM.

30 (F) (1) THE PROGRAM MAY NOT SUBSIDIZE PREMIUMS FOR
31 EMPLOYER-SPONSORED GROUP HEALTH INSURANCE COVERAGE WHERE PREMIUMS
32 FOR THE ELIGIBLE INDIVIDUAL ARE WHOLLY PAID BY THE ELIGIBLE INDIVIDUAL'S
33 EMPLOYER.

34 (2) SUBSIDIES PROVIDED UNDER THE PROGRAM FOR
35 EMPLOYER-SPONSORED GROUP HEALTH INSURANCE COVERAGE MAY NOT EXCEED

1 THE AMOUNT OF PREMIUM THAT THE ELIGIBLE INDIVIDUAL IS REQUIRED TO
2 CONTRIBUTE, AS AN EMPLOYEE, FOR INDIVIDUAL OR FAMILY COVERAGE.

3 (G) AN INDIVIDUAL WHO IS ELIGIBLE FOR THE PROGRAM IN ACCORDANCE
4 WITH SUBSECTION (A) OF THIS SECTION MUST ENROLL IN A GROUP HEALTH
5 INSURANCE PLAN IF:

6 (1) THE INDIVIDUAL IS ELIGIBLE FOR PARTICIPATION IN THE PLAN
7 THROUGH THE INDIVIDUAL'S EMPLOYER; AND

8 (2) THE INDIVIDUAL'S EMPLOYER CONTRIBUTES TO THE PREMIUM COST
9 OF THE PLAN.

10 (H) THE BOARD SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THE
11 LOW-INCOME SUBSIDY PROGRAM.

12 14-515.

13 (A) THE BOARD MAY SELECT AN ADMINISTRATOR TO ADMINISTER THE FUND.

14 (B) THE SELECTION OF AN ADMINISTRATOR UNDER SUBSECTION (A) OF THIS
15 SECTION SHALL BE BASED ON CRITERIA ESTABLISHED BY THE BOARD, WHICH SHALL
16 INCLUDE:

17 (1) THE ADMINISTRATOR'S PROVEN ABILITY TO PROVIDE HEALTH
18 INSURANCE COVERAGE TO INDIVIDUALS;

19 (2) THE EFFICIENCY AND TIMELINESS OF THE ADMINISTRATOR'S CLAIM
20 PROCESSING PROCEDURES;

21 (3) AN ESTIMATE OF TOTAL CHARGES FOR ADMINISTERING THE FUND;

22 (4) THE ADMINISTRATOR'S ABILITY TO APPLY EFFECTIVE COST
23 CONTAINMENT PROGRAMS AND PROCEDURES; AND

24 (5) THE FINANCIAL CONDITION AND STABILITY OF THE
25 ADMINISTRATOR.

26 (C) THE ADMINISTRATOR SHALL SERVE FOR A PERIOD OF TIME SPECIFIED IN
27 ITS CONTRACT WITH THE FUND SUBJECT TO REMOVAL FOR CAUSE AND ANY OTHER
28 TERMS, CONDITIONS, AND LIMITATIONS CONTAINED IN THE CONTRACT.

29 (D) THE ADMINISTRATOR SHALL PERFORM FUNCTIONS RELATING TO THE
30 FUND AS REQUIRED BY THE BOARD, INCLUDING:

31 (1) DETERMINATION OF ELIGIBILITY;

32 (2) DATA COLLECTION;

33 (3) PAYMENT OF SUBSIDIES UNDER § 14-514 OF THIS SUBTITLE;

1 (4) FINANCIAL TRACKING AND REPORTING;

2 (5) PAYMENT OF CLAIMS; AND

3 (6) ESTABLISHING A PREMIUM BILLING PROCEDURE.

4 (E) THE ADMINISTRATOR SHALL SUBMIT REGULAR REPORTS TO THE BOARD
5 REGARDING THE OPERATION OF THE FUND.

6 (F) THE ADMINISTRATOR SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD
7 THAT INCLUDES:

8 (1) THE NET WRITTEN AND EARNED PREMIUMS FOR THE YEAR;

9 (2) THE EXPENSE OF THE ADMINISTRATION FOR THE YEAR; AND

10 (3) THE PAID AND INCURRED LOSSES FOR THE YEAR.

11 14-516.

12 (A) THE BOARD SHALL ESTABLISH A UNIFORM SET OF BENEFITS TO BE
13 OFFERED BY THE FUND INCLUDING:

14 (1) A SCHEDULE OF COMPREHENSIVE HEALTH BENEFITS;

15 (2) BENEFIT EXCLUSIONS;

16 (3) BENEFIT LIMITATIONS;

17 (4) DEDUCTIBLES; AND

18 (5) COPAYMENTS.

19 (B) THE BOARD MAY ADOPT THE COMPREHENSIVE STANDARD HEALTH
20 BENEFIT PLAN ESTABLISHED UNDER § 15-1207 OF THIS ARTICLE AS THE UNIFORM
21 SET OF BENEFITS TO BE OFFERED BY THE FUND.

22 (C) IN ESTABLISHING A UNIFORM SET OF BENEFITS UNDER SUBSECTION (A)
23 OF THIS SECTION, THE BOARD MAY EXCLUDE:

24 (1) A HEALTH CARE SERVICE, BENEFIT, COVERAGE, OR
25 REIMBURSEMENT FOR COVERED HEALTH CARE SERVICES THAT IS REQUIRED
26 UNDER THIS ARTICLE OR THE HEALTH - GENERAL ARTICLE TO BE PROVIDED OR
27 OFFERED IN A HEALTH BENEFIT PLAN THAT IS ISSUED OR DELIVERED IN THE STATE
28 BY A CARRIER; OR

29 (2) REIMBURSEMENT REQUIRED BY STATUTE, BY A HEALTH BENEFIT
30 PLAN FOR A SERVICE WHEN THAT SERVICE IS PERFORMED BY A HEALTH CARE
31 PROVIDER WHO IS LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE AND
32 WHOSE SCOPE OF PRACTICE INCLUDES THAT SERVICE.

1 14-517.

2 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FUND
3 COVERAGE SHALL EXCLUDE CHARGES OR EXPENSES INCURRED DURING THE FIRST
4 6 MONTHS FOLLOWING THE EFFECTIVE DATE OF COVERAGE AS TO ANY CONDITION
5 FOR WHICH MEDICAL ADVICE, CARE, OR TREATMENT WAS RECOMMENDED OR
6 RECEIVED DURING THE 6-MONTH PERIOD IMMEDIATELY PRECEDING THE
7 EFFECTIVE DATE OF COVERAGE.

8 (B) THE PREEXISTING CONDITION EXCLUSION UNDER SUBSECTION (A) OF
9 THIS SECTION MAY NOT BE IMPOSED ON A FUND ENROLLEE WHO SATISFIES THE
10 DEFINITION OF ELIGIBLE INDIVIDUAL UNDER § 15-1301 OF THIS ARTICLE.

11 14-518.

12 (A) THE FUND MAY ANNUALLY ASSESS EACH CARRIER FOR LOSSES
13 INCURRED BY THE FUND.

14 (B) AT THE END OF EACH FISCAL YEAR, THE FUND SHALL DETERMINE THE
15 FOLLOWING, TAKING INTO ACCOUNT INVESTMENT INCOME AND OTHER
16 APPROPRIATE GAINS AND LOSSES:

17 (1) NET PREMIUMS;

18 (2) ADMINISTRATIVE EXPENSES; AND

19 (3) INCURRED LOSSES.

20 (C) EACH CARRIER'S ASSESSMENT SHALL BE DETERMINED BY MULTIPLYING
21 THE TOTAL ASSESSMENT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION BY
22 A FRACTION:

23 (1) THE NUMERATOR OF WHICH EQUALS THE CARRIER'S PREMIUM AND
24 SUBSCRIBER CONTRACT CHARGES FOR HEALTH INSURANCE WRITTEN IN THE STATE
25 DURING THE PRECEDING CALENDAR YEAR; AND

26 (2) THE DENOMINATOR OF WHICH EQUALS THE TOTAL OF ALL HEALTH
27 INSURANCE PREMIUMS WRITTEN BY ALL CARRIERS.

28 (D) IF THE ASSESSMENTS COLLECTED EXCEED THE FUND'S ACTUAL LOSSES
29 AND ADMINISTRATIVE EXPENSES THE EXCESS SHALL BE HELD IN AN INTEREST
30 BEARING ACCOUNT AND THE EXCESS PLUS INTEREST SHALL BE USED BY THE
31 BOARD TO:

32 (1) OFFSET FUTURE LOSSES; OR

33 (2) REDUCE FUTURE ASSESSMENTS.

34 (E) EACH CARRIER SHALL FILE WITH THE BOARD ANNUAL STATEMENTS AND
35 OTHER REPORTS DEEMED NECESSARY BY THE BOARD TO CALCULATE AND VERIFY
36 AN ASSESSMENT.

1 (F) (1) A CARRIER MAY PETITION THE BOARD FOR AN ABATEMENT OR
2 DEFERMENT OF AN ASSESSMENT IMPOSED BY THE BOARD IF PAYMENT OF THE
3 ASSESSMENT WOULD ENDANGER THE ABILITY OF THE CARRIER TO FULFILL ITS
4 CONTRACTUAL OBLIGATIONS.

5 (2) IN THE EVENT THAT AN ASSESSMENT IS ABATED OR DEFERRED IN
6 ACCORDANCE WITH THIS SUBSECTION, THE AMOUNT OF THE ABATED OR DEFERRED
7 ASSESSMENT SHALL BE ASSESSED AGAINST THE OTHER CARRIERS IN A MANNER
8 CONSISTENT WITH THE REQUIREMENTS FOR CALCULATING ASSESSMENTS UNDER
9 SUBSECTION (C) OF THIS SECTION.

10 (3) A CARRIER THAT RECEIVES AN ABATEMENT OR DEFERMENT UNDER
11 THIS SUBSECTION SHALL REMAIN LIABLE TO THE FUND FOR THE DEFICIENCY FOR A
12 PERIOD OF 4 YEARS.

13 **Article - State Finance and Procurement**

14 11-203.

15 (a) Except as provided in subsection (b) of this section, this Division II does
16 not apply to:

17 (1) procurement by:

18 (i) the Blind Industries and Services of Maryland;

19 (ii) the Maryland State Arts Council, for the support of the arts;

20 (iii) the Maryland Health and Higher Educational Facilities
21 Authority, if no State money is to be spent on a procurement contract;

22 (iv) the Maryland Higher Education Supplemental Loan Authority,
23 if no State money is to be spent on a procurement contract;

24 (v) the Maryland Industrial Training Program or the Partnership
25 for Workforce Quality Program in the Department of Business and Economic
26 Development, for training services or programs for new or expanding businesses or
27 industries or businesses or industries in transition;

28 (vi) the Maryland Food Center Authority, to the extent the
29 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;

30 (vii) the Maryland Public Broadcasting Commission, for services of
31 artists for educational and cultural television productions;

32 (viii) public institutions of higher education, for cultural,
33 entertainment, and intercollegiate athletic procurement contracts;

34 (ix) the Maryland State Planning Council on Developmental
35 Disabilities, for services to support demonstration, pilot, and training programs;

- 1 (x) the Maryland Automobile Insurance Fund;
- 2 (xi) the Maryland Historical Trust for:
- 3 1. surveying and evaluating architecturally, archeologically,
4 historically, or culturally significant properties; and
- 5 2. other than as to architectural services, preparing historic
6 preservation planning documents and educational material;
- 7 (xii) the University of Maryland, for University College Overseas
8 Programs, if the University adopts regulations that:
- 9 1. establish policies and procedures governing procurement
10 for University College Overseas Programs; and
- 11 2. promote the purposes stated in § 11-201(a) of this subtitle;
- 12 (xiii) St. Mary's College of Maryland;
- 13 (xiv) the Department of Business and Economic Development, for
14 negotiating and entering into private sector cooperative marketing projects that
15 directly enhance promotion of Maryland and the tourism industry where there will be
16 a private sector contribution to the project if not less than 50% of the total cost of the
17 project, if the project is reviewed by the Attorney General and approved by the
18 Secretary of Business and Economic Development or the Secretary's designee;
- 19 (xv) the Forvm for Rural Maryland; [and]
- 20 (xvi) the Maryland State Lottery Agency, for negotiating and
21 entering into private sector cooperative marketing projects that directly enhance
22 promotion of the Maryland State Lottery and its products, if the cooperative
23 marketing project:
- 24 1. provides a substantive promotional or marketing value
25 that the lottery determines acceptable in exchange for advertising or other
26 promotional activities provided by the lottery;
- 27 2. does not involve the advertising or other promotion of
28 alcohol or tobacco products; and
- 29 3. is reviewed by the Attorney General and approved by the
30 Maryland Lottery Director or the Director's designee; AND
- 31 (XVII) THE MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND
32 ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE.

Article - State Government

2 6.5-301.

3 (a) The appropriate regulating entity shall approve an acquisition unless it
4 finds the acquisition is not in the public interest.

5 (b) An acquisition is not in the public interest unless appropriate steps have
6 been taken to:

7 (1) ensure that the value of public or charitable assets is safeguarded;

8 (2) ensure that:

9 (i) 1. 2% OF the fair value of the public or charitable assets of a
10 nonprofit health service plan or a health maintenance organization will be distributed
11 to the Maryland Health Care Foundation that was established in § 20-502 of the
12 Health - General Article; and

13 2. 98% OF THE FAIR VALUE OF THE PUBLIC OR CHARITABLE
14 ASSETS OF A NONPROFIT HEALTH SERVICE PLAN OR A HEALTH MAINTENANCE
15 ORGANIZATION WILL BE DISTRIBUTED TO THE MARYLAND HEALTH INSURANCE AND
16 ASSISTANCE FUND ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE
17 ARTICLE; or

18 (ii) 1. 40% of the fair value of the public or charitable assets of a
19 nonprofit hospital will be distributed to the Maryland Health Care Foundation that
20 was established in § 20-502 of the Health - General Article; and

21 2. 60% of the fair value of the public or charitable assets of a
22 nonprofit hospital will be distributed to a public or nonprofit charitable entity or trust
23 that is:

24 A. dedicated to serving the unmet health care needs of the
25 affected community;

26 B. dedicated to promoting access to health care in the
27 affected community;

28 C. dedicated to improving the quality of health care in the
29 affected community; and

30 D. independent of the transferee; and

31 (3) ensure that no part of the public or charitable assets of the
32 acquisition inure directly or indirectly to an officer, director, or trustee of a nonprofit
33 health entity.

34 (c) The regulating entity may determine that a distribution of assets of a
35 nonprofit health entity ~~or a vote of its certificate holders as provided under §~~
36 ~~6.5-303(2)(iii) of this subtitle~~ is not required under this section if the transaction is:

1 (1) determined not to be an acquisition;

2 (2) in the ordinary course of business; and

3 (3) for fair value.

4 (d) In determining fair value, the appropriate regulating entity may consider
5 all relevant factors, including, as determined by the regulating entity:

6 (1) the value of the nonprofit health entity or an affiliate or the assets of
7 such an entity that is determined as if the entity had voting stock outstanding and
8 100% of its stock was freely transferable and available for purchase without
9 restriction;

10 (2) the value as a going concern;

11 (3) the market value;

12 (4) the investment or earnings value;

13 (5) the net asset value; and

14 (6) a control premium, if any.

15 (e) In determining whether an acquisition is in the public interest, the
16 appropriate regulating entity shall consider:

17 (1) whether the transferor exercised due diligence in deciding to engage
18 in an acquisition, selecting the transferee, and negotiating the terms and conditions
19 of the acquisition;

20 (2) the procedures the transferor used in making the decision, including
21 whether appropriate expert assistance was used;

22 (3) whether any conflicts of interest were disclosed, including conflicts of
23 interest of board members, executives, and experts retained by the transferor,
24 transferee, or any other parties to the acquisition;

25 (4) whether the transferor will receive fair value for its public or
26 charitable assets;

27 (5) whether public or charitable assets are placed at unreasonable risk if
28 the acquisition is financed in part by the transferor;

29 (6) whether the acquisition has the likelihood of creating a significant
30 adverse effect on the availability or accessibility of health care services in the affected
31 community;

32 (7) whether the acquisition includes sufficient safeguards to ensure that
33 the affected community will have continued access to affordable health care; and

1 (8) whether any management contract under the acquisition is for fair
2 value.

3 6.5-303.

4 In determining whether to approve an acquisition of a nonprofit health service
5 plan or a nonprofit health maintenance organization, the Administration shall
6 consider:

7 (1) the criteria listed in § 6.5-301 of this subtitle; and

8 (2) whether the acquisition:

9 (i) is equitable to enrollees, insureds, shareholders, and certificate
10 holders, if any, of the transferor;

11 (ii) is in compliance with Title 2, Subtitle 6 of the Corporations and
12 Associations Article;

13 (iii) [is approved by at least two-thirds of the transferor's certificate
14 holders who have voted on the acquisition:

15 1. in person, by proxy, or by mail; and

16 2. pursuant to the requirements adopted by the
17 Commissioner regarding notice and procedure; and

18 (iv)] ensures that the transferee will possess surplus in an amount
19 sufficient to:

20 1. comply with the surplus required under law; and

21 2. provide for the security of the transferee's certificate
22 holders and policyholders.

23 ~~SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
24 ~~read as follows:~~

25 ~~**Article – Health – General**~~

26 ~~19-103.~~

27 (e) ~~The purpose of the Commission is to:~~

28 (1) ~~Develop health care cost containment strategies to help provide~~
29 ~~access to appropriate quality health care services for all Marylanders, after~~
30 ~~consulting with the Health Services Cost Review Commission;~~

31 (2) ~~Promote the development of a health regulatory system that~~
32 ~~provides, for all Marylanders, financial and geographic access to quality health care~~
33 ~~services at a reasonable cost by:~~

- 1 (i) Advocating policies and systems to promote the efficient
2 delivery of and improved access to health care services; and
- 3 (ii) Enhancing the strengths of the current health care service
4 delivery and regulatory system;
- 5 (3) Facilitate the public disclosure of medical claims data for the
6 development of public policy;
- 7 (4) Establish and develop a medical care data base on health care
8 services rendered by health care practitioners;
- 9 (5) Encourage the development of clinical resource management systems
10 to permit the comparison of costs between various treatment settings and the
11 availability of information to consumers, providers, and purchasers of health care
12 services;
- 13 (6) In accordance with Title 15, Subtitle 12 of the Insurance Article,
14 develop:
- 15 (i) A uniform set of effective benefits to be included in the
16 Comprehensive Standard Health Benefit Plan; and
- 17 (ii) A modified health benefit plan for medical savings accounts;
- 18 (7) Analyze the medical care data base and provide, in aggregate form,
19 an annual report on the variations in costs associated with health care practitioners;
- 20 (8) Ensure utilization of the medical care data base as a primary means
21 to compile data and information and annually report on trends and variances
22 regarding fees for service, cost of care, regional and national comparisons, and
23 indications of malpractice situations;
- 24 (9) Establish standards for the operation and licensing of medical care
25 electronic claims clearinghouses in Maryland;
- 26 (10) Reduce the costs of claims submission and the administration of
27 claims for health care practitioners and payors;
- 28 (11) [Develop a uniform set of effective benefits to be offered as
29 substantial, available, and affordable coverage in the nongroup market in accordance
30 with § 15-606 of the Insurance Article;
- 31 (12) } Determine the cost of mandated health insurance services in
32 the State in accordance with Title 15, Subtitle 15 of the Insurance Article; and
- 33 [(13) } (12) Promote the availability of information to consumers on
34 charges by practitioners and reimbursements from payors.

1 ~~19-219.~~

2 (a) ~~The Commission may review costs and rates and make any investigation~~
3 ~~that the Commission considers necessary to assure each purchaser of health care~~
4 ~~facility services that:~~

5 (1) ~~The total costs of all hospital services offered by or through a facility~~
6 ~~are reasonable;~~

7 (2) ~~The aggregate rates of the facility are related reasonably to the~~
8 ~~aggregate costs of the facility; and~~

9 (3) ~~The rates are set equitably among all purchasers or classes of~~
10 ~~purchasers without undue discrimination or preference.~~

11 (b) (1) ~~To carry out its powers under subsection (a) of this section, the~~
12 ~~Commission may review and approve or disapprove the reasonableness of any rate~~
13 ~~that a facility sets or requests.~~

14 (2) ~~A facility shall charge for services only at a rate set in accordance~~
15 ~~with this subtitle.~~

16 (3) ~~In determining the reasonableness of rates, the Commission may~~
17 ~~take into account objective standards of efficiency and effectiveness.~~

18 (c) ~~To promote the most efficient and effective use of health care facility~~
19 ~~services and, if it is in the public interest and consistent with this subtitle, the~~
20 ~~Commission may promote and approve alternate methods of rate determination and~~
21 ~~payment that are of an experimental nature.~~

22 ~~(D) (1) THE ASSESSMENT UNDER THIS SUBSECTION:~~

23 ~~(I) IS REQUIRED IN LIEU OF THE MANDATORY 4% DIFFERENTIAL~~
24 ~~ON HOSPITAL RATES IMPOSED UNDER THE FORMER SUBSTANTIAL, AVAILABLE, AND~~
25 ~~AFFORDABLE COVERAGE (SAAC) PROGRAM; AND~~

26 ~~(II) IS INTENDED TO DECREASE THE COST OF UNCOMPENSATED~~
27 ~~CARE THAT IS CURRENTLY BORNE BY THE CITIZENS OF THE STATE THROUGH~~
28 ~~HOSPITAL RATES.~~

29 ~~(2) (I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE~~
30 ~~COMMISSION SHALL ASSESS EACH ACUTE CARE HOSPITAL IN AN AMOUNT EQUAL TO~~
31 ~~1% OF THE HOSPITAL'S GROSS ANNUAL REVENUE.~~

32 ~~(II) THE ASSESSMENT SHALL BE COLLECTED IN ACCORDANCE~~
33 ~~WITH A SCHEDULE ESTABLISHED BY THE COMMISSION IN CONSULTATION WITH~~
34 ~~REPRESENTATIVES OF THE ACUTE CARE HOSPITALS.~~

35 ~~(III) EACH ACUTE CARE HOSPITAL ASSESSED UNDER THIS~~
36 ~~SUBSECTION SHALL REMIT THE FULL AMOUNT OF THE ASSESSMENT TO THE~~

~~1 MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND ESTABLISHED UNDER
2 TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE IN ACCORDANCE WITH THE
3 SCHEDULE ADOPTED BY THE COMMISSION UNDER SUBPARAGRAPH (II) OF THIS
4 PARAGRAPH.~~

~~5 (3) THE COMMISSION, IN CONSULTATION WITH THE BOARD OF THE
6 MARYLAND HEALTH INSURANCE AND ASSISTANCE FUND ESTABLISHED UNDER
7 TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE, SHALL REDETERMINE THE
8 ASSESSMENT ON ACUTE CARE HOSPITALS IF THE COMMISSION FINDS THAT A 1%
9 ASSESSMENT WILL RESULT IN THE LOSS OF THE STATE'S MEDICARE WAIVER UNDER
10 § 1814(B) OF THE SOCIAL SECURITY ACT.~~

~~11 (E) (1) THE COMMISSION SHALL ADJUST HOSPITAL RATES TO TAKE INTO
12 ACCOUNT THE ASSESSMENT REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.~~

~~13 (2) THE COMMISSION MAY NOT CONSIDER THE ASSESSMENT REQUIRED
14 UNDER SUBSECTION (D) OF THIS SECTION IN DETERMINING:~~

~~15 (I) THE REASONABLENESS OF RATES UNDER THIS SECTION; OR~~

~~16 (II) HOSPITAL FINANCIAL PERFORMANCE.~~

~~17 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 15-606 of
18 Article Insurance of the Annotated Code of Maryland, as enacted by Section 3 of this
19 Act, be repealed.~~

~~20 SECTION 7. 3. AND BE IT FURTHER ENACTED, That the terms of the initial
21 members of the Board of the Maryland Health Insurance and Assistance Fund shall
22 expire as follows:~~

~~23 (1) 3 members in 2003;~~

~~24 (2) 3 members in 2004; and~~

~~25 (3) 3 members in 2005.~~

~~26 SECTION 8. AND BE IT FURTHER ENACTED, That:~~

~~27 (a) Enrollment in the Short-Term Prescription Drug Subsidy Program
28 established under Chapter 565 of the Acts of the General Assembly of 2000 shall be
29 terminated on June 1, 2001;~~

~~30 (b) The carrier that provides drug benefits under the Program shall
31 continue to provide those benefits in accordance with the terms of its contract with
32 the State for those individuals who are enrolled in the program at the time that new
33 enrollment is terminated under subsection (a) of this section;~~

~~34 (c) The Department of Health and Mental Hygiene shall ensure that the
35 carrier has the funds necessary to provide the required Program benefits until the
36 Program terminates in accordance with this section;~~

1 (d) Any funds in the Short Term Prescription Drug Subsidy Plan Fund
2 on June 1, 2001 or in any other public or private account that is used to support the
3 Short Term Prescription Drug Subsidy Plan on June 1, 2001, that are not needed to
4 fund Program benefits for the remaining enrollees in accordance with subsection (e) of
5 this section, shall be transferred, no later than October 1, 2001 to the Maryland
6 Health Insurance and Assistance Fund established under Title 14, Subtitle 5 of the
7 Insurance Article; and

8 (e) Coverage under the Program shall cease on the earlier of:

9 (1) the date on which the last policy in existence on June 1, 2001
10 expires; or

11 (2) June 30, 2002.

12 SECTION 9. ~~4.~~ AND BE IT FURTHER ENACTED, That the Maryland Health
13 Insurance and Assistance Fund established under this Act shall begin enrolling
14 eligible individuals on or before July 1, 2002.

15 SECTION ~~10.~~ 5. AND BE IT FURTHER ENACTED, That:

16 (a) It is the intent of the General Assembly that the Governor include a
17 refundable supplemental appropriation in the fiscal year 2002 State budget sufficient
18 to cover the administrative and operating costs of the Board of the Maryland Health
19 Insurance and Assistance Fund until such time as the Fund receives money from the
20 funding sources provided for in this Act; and

21 (b) The Board of the Maryland Health Insurance and Assistance Fund
22 shall repay any money appropriated by the Governor in the fiscal year 2002 State
23 budget when money sufficient to repay the appropriation and to cover the ongoing
24 operating expenses of the Board is deposited in the Fund from the funding sources
25 provided for in this Act.

26 SECTION ~~11.~~ AND BE IT FURTHER ENACTED, That:

27 (a) The Maryland Health Services Cost Review Commission shall
28 continue to offer a differential in hospital rates for qualified carriers under the
29 Substantial, Available, and Affordable Coverage (SAAC) Program until July 1, 2002;

30 (b) On July 1, 2002, the differential offered under the SAAC Program
31 shall terminate; and

32 (c) Each carrier that chooses to discontinue its participation in the SAAC
33 Program shall provide written notification to each of its SAAC product enrollees of
34 the existence of the Maryland Health Insurance and Assistance Fund and the
35 availability of coverage under the Fund.

36 SECTION 12. AND BE IT FURTHER ENACTED, That Sections 1, 2, 3, and 8 of
37 this Act shall take effect June 1, 2001.

1 ~~SECTION 13. AND BE IT FURTHER ENACTED, That Sections 5 and 6 of this~~
2 ~~Act shall take effect July 1, 2002.~~

3 ~~SECTION 14. 6 AND BE IT FURTHER ENACTED, That, except as provided in~~
4 ~~Sections 12 and 13 of this Act, this Act shall take effect July 1, 2001.~~