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By: **Senators Sfikas and Teitelbaum**  
Introduced and read first time: March 5, 2001  
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Pharmacy Assistance Plus Plan**

3 FOR the purpose of establishing the Pharmacy Assistance Plus Plan within the  
4 Maryland Pharmacy Assistance Program; providing for the purposes of the Plan;  
5 establishing certain asset and income eligibility standards for the Plan;  
6 providing for the benefits to be provided under the Plan; establishing the  
7 Pharmacy Assistance Plus Trust Fund and providing for the administration of  
8 the Fund; providing for a certain addition to tax to fund the Plan and the deposit  
9 of the moneys from that addition to tax in the Fund; providing for the  
10 application of certain provisions of this Act; establishing the Pharmacy  
11 Assistance Plus Plan Advisory Committee; providing for the membership, terms,  
12 compensation, duties, and organization of the Advisory Committee; requiring  
13 the Secretary of Health and Mental Hygiene to adopt certain regulations;  
14 requiring the Secretary to report annually to the Governor and the General  
15 Assembly; defining promotion and marketing; and generally relating to the  
16 Pharmacy Assistance Plus Plan, Pharmacy Assistance Plus Trust Fund, and the  
17 Pharmacy Assistance Plus Plan Advisory Committee.

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section 15-124  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume)

23 BY adding to  
24 Article - Tax - General  
25 Section 2-602 to be under the part "Part II. Distribution of Income Tax Revenue  
26 from Individuals"; and 10-605  
27 Annotated Code of Maryland  
28 (1997 Replacement Volume and 2000 Supplement)

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

1 **Article - Health - General**

2 15-124.

3 (a) (1) The Department shall maintain a Maryland Pharmacy Assistance  
4 Program for low income individuals whose:5 (i) Assets are not more than 1.5 times the amount of accountable  
6 resources according to the asset schedule of the Maryland Medical Assistance  
7 Program; and

8 (ii) Gross annual income does not exceed:

9 1. \$4,600 plus \$500 for each individual over 1 in a family  
10 unit; and11 2. An annual increase set by the Secretary under paragraph  
12 (2)(ii)4 of this subsection.13 (2) (i) 1. In this paragraph the following words have the meanings  
14 indicated.15 2. "Income disregard" means the exclusion of up to \$1,000 of  
16 annual income earned by an individual as a client of a sheltered workshop if the  
17 individual's sole other income is derived from a Social Security payment.18 3. "Sheltered workshop" means a workshop licensed by the  
19 Developmental Disabilities Administration under Title 7, Subtitle 9 of this article.20 (ii) For the purpose of paragraph (1) of this subsection, the  
21 Secretary shall:22 1. In order to determine eligibility for the Maryland  
23 Pharmacy Assistance Program, deduct any income disregards from the countable  
24 gross income of a unit that contains a disabled individual;

25 2. Define excluded assets;

26 3. Establish a family unit structure; and

27 4. Beginning July 1, 1985, increase annually at the time  
28 Social Security benefits are increased, rounded to the next highest even \$50 level, the  
29 income level within which an individual is eligible for benefits under the Maryland  
30 Pharmacy Assistance Program by the larger of:31 A. The percentage by which benefits under Title II of the  
32 Social Security Act (42 U.S.C. 401-433) are increased by the federal government due  
33 to cost-of-living changes as that percentage is reported in the Federal Register  
34 pursuant to 42 U.S.C. 415(I)(2)(D) but not to exceed 8 percent; or

1 B. The dollar amount by which the medical assistance income  
2 schedules are increased by the State.

3 (3) REIMBURSEMENT UNDER THIS SUBSECTION SHALL BE UP TO THE  
4 AMOUNT PAID FOR THE SAME ITEMS OR SERVICES UNDER THE PHARMACY PROGRAM  
5 OF THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND SHALL BE SUBJECT TO A  
6 CO-PAYMENT OF NOT MORE THAN \$5 FOR EACH COVERED ITEM OR SERVICE.

7 (A-1) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
8 MEANINGS INDICATED.

9 (II) "CATASTROPHIC MEDICAL EXPENSES" MEANS OUT-OF-POCKET  
10 MEDICAL EXPENSES THAT EXCEED 10% OF AN INDIVIDUAL'S ANNUAL INCOME AFTER  
11 PAYMENTS BY OTHER LIABLE ENTITIES OR PERSONS ARE MADE.

12 (III) "FUND" MEANS THE MARYLAND PHARMACY ASSISTANCE PLUS  
13 TRUST FUND ESTABLISHED UNDER THIS SUBSECTION.

14 (IV) "PLAN" MEANS THE MARYLAND PHARMACY ASSISTANCE PLUS  
15 PLAN ESTABLISHED UNDER THIS SUBSECTION.

16 (2) (I) THERE IS A MARYLAND PHARMACY ASSISTANCE PLUS PLAN IN  
17 THE MARYLAND PHARMACY ASSISTANCE PROGRAM.

18 (II) THE PURPOSES OF THE PLAN ARE:

19 1. TO PROVIDE COVERAGE UNDER THE MARYLAND  
20 PHARMACY ASSISTANCE PROGRAM TO ENROLLEES IN THE PLAN; AND

21 2. TO PROVIDE ASSISTANCE IN PURCHASING PRESCRIPTION  
22 DRUGS COVERED UNDER THE MARYLAND PHARMACY ASSISTANCE PROGRAM TO  
23 ENROLLEES IN THE PLAN WITH CATASTROPHIC MEDICAL EXPENSES AND OTHER  
24 INDIVIDUALS WITH CATASTROPHIC MEDICAL EXPENSES.

25 (3) AN INDIVIDUAL IS ELIGIBLE TO ENROLL IN THE PLAN IF THE  
26 INDIVIDUAL:

27 (I) DOES NOT HAVE INSURANCE COVERAGE FOR PRESCRIPTION  
28 DRUGS; AND

29 (II) HAS:

30 1. ASSETS THAT ARE MORE THAN 1.5 TIMES AND NOT MORE  
31 THAN 4 TIMES THE AMOUNT OF ACCOUNTABLE RESOURCES ESTABLISHED UNDER  
32 THE ASSET SCHEDULE OF THE MARYLAND MEDICAL ASSISTANCE PROGRAM; AND

33 2. A GROSS ANNUAL HOUSEHOLD INCOME THAT:

34 A. EXCEEDS THE MAXIMUM INCOME ELIGIBILITY LEVEL  
35 ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION; AND

1 B. DOES NOT EXCEED 300 PERCENT OF THE FEDERAL  
2 POVERTY LEVEL.

3 (4) (I) BEGINNING JANUARY 1, 2002, AN ENROLLEE IN THE PLAN MAY  
4 RECEIVE ASSISTANCE WITH REIMBURSEMENT FOR THE PURCHASE OF  
5 PRESCRIPTION DRUGS APPROVED UNDER THE MARYLAND PHARMACY ASSISTANCE  
6 PROGRAM.

7 (II) THE DEPARTMENT AND THE PLAN MAY ESTABLISH ANY  
8 APPROPRIATE PREMIUMS, CO-PAYMENTS, AND DEDUCTIBLES UNDER THE PLAN AS  
9 NECESSARY TO COVER THE COSTS OF THE PLAN NOT OTHERWISE COVERED BY THE  
10 FEES ASSESSED UNDER PARAGRAPH (6) OF THIS SUBSECTION.

11 (III) THE DEPARTMENT SHALL ISSUE AN ELIGIBILITY CARD TO  
12 ENROLLEES IN THE PLAN.

13 (5) (I) BEGINNING JANUARY 1, 2002, AN ENROLLEE IN THE PLAN OR  
14 ANY OTHER INDIVIDUAL IN THE STATE WITH CATASTROPHIC MEDICAL EXPENSES IN  
15 THE CALENDAR YEAR IN WHICH BENEFITS ARE SOUGHT UNDER THE PLAN MAY  
16 RECEIVE ASSISTANCE WITH REIMBURSEMENT FOR THE PURCHASE OF  
17 PRESCRIPTION DRUGS APPROVED UNDER THE MARYLAND PHARMACY ASSISTANCE  
18 PROGRAM.

19 (II) ASSISTANCE SHALL BE PROVIDED BY THE PLAN UNDER THIS  
20 PARAGRAPH WITHIN 24 HOURS OF THE RECIPIENT'S APPLICATION FOR ASSISTANCE.

21 (III) THE DEPARTMENT AND PROGRAM MAY ESTABLISH ANY  
22 APPROPRIATE CO-PAYMENTS AND DEDUCTIBLES NECESSARY TO COVER THE COSTS  
23 OF ASSISTANCE UNDER THIS PARAGRAPH NOT OTHERWISE COVERED BY THE FEES  
24 ASSESSED UNDER PARAGRAPH (6) OF THIS SUBSECTION.

25 (6) (I) THERE IS A MARYLAND PHARMACY ASSISTANCE PLUS TRUST  
26 FUND.

27 (II) THE FUND SHALL BE USED TO PROVIDE ASSISTANCE UNDER  
28 THE PLAN AND TO DEFRAY THE COSTS OF ADMINISTERING THE PLAN.

29 (III) THE MONEYS IN THE FUND ARE:

30 1. THE MONEYS RECEIVED BY THE COMPTROLLER FROM  
31 PHARMACEUTICAL AND BIOPHARMACEUTICAL COMPANIES UNDER § 10-605 OF THE  
32 TAX - GENERAL ARTICLE AND DEPOSITED BY THE COMPTROLLER IN THE TRUST  
33 FUND UNDER § 2-602 OF THE TAX - GENERAL ARTICLE; AND

34 2. ANY PREMIUMS, CO-PAYMENTS, AND DEDUCTIBLES  
35 COLLECTED BY THE PLAN FROM ENROLLEES OR NONENROLLEE RECIPIENTS OF  
36 BENEFITS UNDER THIS SUBSECTION.

1 (IV) THE FUND IS A CONTINUING, NONLAPSING FUND  
2 ADMINISTERED BY THE DEPARTMENT THAT IS NOT SUBJECT TO § 7-302 OF THE  
3 STATE FINANCE AND PROCUREMENT ARTICLE.

4 (V) THE SECRETARY MAY INVEST MONEYS IN THE FUND AND ALL  
5 EARNINGS SHALL BE CREDITED TO THE FUND.

6 (7) (I) THERE IS A PHARMACY ASSISTANCE PLUS PLAN ADVISORY  
7 COMMITTEE.

8 (II) THE ADVISORY COMMITTEE SHALL:

9 1. MONITOR THE PLAN AND THE USES OF THE FUND; AND

10 2. MAKE RECOMMENDATIONS TO THE SECRETARY FOR THE  
11 ADMINISTRATION OR EXPANSION OF THE PLAN.

12 (III) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING 13  
13 MEMBERS:

14 1. FIVE MEMBERS APPOINTED BY THE GOVERNOR AS  
15 FOLLOWS:

16 A. ONE REPRESENTATIVE OF THE ASSOCIATION  
17 REPRESENTING CHAIN DRUG STORES;

18 B. ONE REPRESENTATIVE OF THE ASSOCIATION  
19 REPRESENTING INDEPENDENT PHARMACIES;

20 C. TWO PARTICIPANTS IN THE MARYLAND PHARMACY  
21 ASSISTANCE PROGRAM; AND

22 D. ONE REPRESENTATIVE OF AARP;

23 2. THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR  
24 THE SECRETARY'S DESIGNEE;

25 3. THE SECRETARY OF AGING OR THE SECRETARY'S  
26 DESIGNEE;

27 4. THE SECRETARY OF HUMAN RESOURCES OR THE  
28 SECRETARY'S DESIGNEE;

29 5. THE EXECUTIVE DIRECTOR OF THE CENTER FOR HEALTH  
30 PROGRAM DEVELOPMENT AND MANAGEMENT OR THE EXECUTIVE DIRECTOR'S  
31 DESIGNEE;

32 6. TWO MEMBERS OF THE SENATE OF MARYLAND,  
33 APPOINTED BY THE PRESIDENT OF THE SENATE; AND

1                                7.        TWO MEMBERS OF THE HOUSE OF DELEGATES,  
2 APPOINTED BY THE SPEAKER OF THE HOUSE.

3                                (IV)    1.        THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

4                                2.        THE TERMS OF THE APPOINTED MEMBERS OF THE  
5 ADVISORY COMMITTEE ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED  
6 FOR MEMBERS APPOINTED ON OR BEFORE AUGUST 1, 2001.

7                                3.        AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
8 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

9                                (V)     THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE  
10 SECRETARY'S DESIGNEE SHALL SERVE AS CHAIR OF THE ADVISORY COMMITTEE.

11                                (VI)    THE ADVISORY COMMITTEE SHALL MEET FOUR TIMES EACH  
12 YEAR AT A TIME AND PLACE SPECIFIED BY THE CHAIRMAN OF THE COMMITTEE.

13                                (VII)   A MEMBER OF THE ADVISORY COMMITTEE:

14                                1.        MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE  
15 ADVISORY COMMITTEE; BUT

16                                2.        IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER  
17 THE STANDARD STATE TRAVEL REGULATIONS.

18                                (8)     (I)       BEGINNING OCTOBER 1, 2002 AND ANNUALLY THEREAFTER,  
19 THE SECRETARY SHALL REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO §  
20 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE APPROPRIATE COMMITTEES  
21 OF THE GENERAL ASSEMBLY ON THE STATUS OF THE PLAN AND FUND.

22                                (II)    THE ANNUAL REPORT SHALL INCLUDE ANY  
23 RECOMMENDATIONS FOR CHANGING THE PARAMETERS, ELIGIBILITY LEVELS, OR  
24 PURPOSES OF THE PLAN.

25                                (9)     THE SECRETARY SHALL ADOPT REGULATIONS FOR THE  
26 ADMINISTRATION OF THIS SUBSECTION.

27        (b)    (1)     [(i)]    Reimbursement under the Maryland Pharmacy Assistance  
28 Program shall be limited to maintenance drugs, anti-infectives, and AZT as specified  
29 in regulations to be issued by the Secretary after consultation with the Maryland  
30 Pharmacists Association.

31                                [(ii)]   (2)     [1.]    (I)       For any drug on the Program's interchangeable  
32 drug list, the Program shall reimburse providers in an amount not more than it would  
33 reimburse for the drug's generic equivalent, unless the individual's physician states,  
34 in his or her own handwriting, on the face of the prescription, that a specific brand is  
35 "medically necessary" for the particular patient.

1 [2.] (II) If an appropriate generic drug is not generally  
2 available, the Department may waive the reimbursement requirement under  
3 sub-subparagraph 1 of this subparagraph.

4 [(2) The reimbursement shall be up to the amount paid for the same  
5 items or services under the pharmacy program of the Maryland Medical Assistance  
6 Program and shall be subject to a copayment of not more than \$5.00 for each covered  
7 item or service.]

8 (c) (1) Except as provided under paragraph (4) of this subsection and unless  
9 the change is made by an emergency regulation, the Maryland Pharmacy Assistance  
10 Program shall notify all pharmacies under contract with the Program in writing of  
11 changes in the Pharmaceutical Benefit Program rules or requirements at least 30  
12 days before the change is effective.

13 (2) Changes that require 30 days' advance written notice under  
14 paragraph (1) of this subsection are:

15 (i) Exclusion of coverage for classes of drugs as specified by  
16 contract;

17 (ii) Changes in prior or preauthorization procedures; and

18 (iii) Selection of new prescription claims processors.

19 (3) If the Maryland Pharmacy Assistance Program fails to provide  
20 advance notice as required under paragraph (1) of this subsection, it shall honor and  
21 pay in full any claim under the Program rules or requirements that existed before the  
22 change for 30 days after the postmarked date of the notice.

23 (4) Notwithstanding any other provision of law, the notice requirements  
24 of this subsection do not apply to the addition of new generic drugs authorized under  
25 § 12-504 of the Health Occupations Article.

26 (d) (1) The Secretary shall adopt rules and regulations that authorize the  
27 denial, restriction, or termination of eligibility for recipients who have abused  
28 benefits under the Maryland Pharmacy Assistance Program.

29 (2) As a condition of participation, the Department may require  
30 Maryland Pharmacy Assistance Program participants to apply for eligibility in the  
31 Maryland Medical Assistance Program within 60 days of notification to do so by the  
32 Department.

33 (3) The rules and regulations shall require that the recipient be given  
34 notice and an opportunity for a hearing before eligibility may be denied, restricted, or  
35 terminated under this subsection.

36 (e) The Secretary shall develop a program, in consultation with appropriate  
37 agencies, that will provide information to ineligible Maryland Pharmacy Assistance

1 Program applicants regarding other programs that they may be eligible for including  
2 free programs offered by drug manufacturers.

3 **Article - Tax - General**

4 Part II. Distribution of Income Tax Revenue from Individuals.

5 2-602.

6 THE COMPTROLLER SHALL DISTRIBUTE THE INCOME TAX REVENUES FROM  
7 THE ADDITION TO TAX IMPOSED UNDER § 10-605 OF THIS ARTICLE TO THE  
8 MARYLAND PHARMACY ASSISTANCE PLUS TRUST FUND CREATED UNDER §  
9 15-124(A-1)(7) OF THE HEALTH - GENERAL ARTICLE.

10 10-605.

11 (A) IN THIS SECTION:

12 (1) "PROMOTION AND MARKETING" MEANS THE PROCESS OF  
13 IDENTIFYING, ANTICIPATING, AND SATISFYING CONSUMER REQUIREMENTS  
14 PROFITABLY; AND

15 (2) "PROMOTION AND MARKETING" INCLUDES:

16 (I) GIFTS AND FREE SAMPLES GIVEN, EXCLUDING  
17 PHARMACEUTICAL PRODUCTS; AND

18 (II) PROMOTION- AND MARKETING-ORIENTED ENTERTAINMENT.

19 (B) FOR EACH TAXPAYER THAT IS A PHARMACEUTICAL MANUFACTURER, OR  
20 WHOLESALER, DOING BUSINESS IN THE STATE, THERE SHALL BE ADDED TO THE  
21 STATE INCOME TAX AN AMOUNT EQUAL TO THE SUM OF ALL EXPENDITURES BY THE  
22 TAXPAYER DURING THE TAXABLE YEAR FOR PROMOTION AND MARKETING IN THE  
23 STATE OR FOR LEGISLATIVE ADVOCACY IN THE STATE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the initial members of  
25 the Pharmacy Assistance Plus Trust Fund Advisory Committee created under §  
26 15-124(a-1) of the Health - General Article by this Act shall be appointed on or before  
27 August 1, 2001. The terms of the initial members appointed by the Governor shall  
28 expire as follows:

29 (1) Two members on or before June 30, 2002;

30 (2) Two members on or before June 30, 2003; and

31 (3) One member on or before June 30, 2004.

32 SECTION 3. AND BE IT FURTHER ENACTED, That the addition to tax under  
33 § 10-605 of the Tax - General Article as enacted under Section 1 of this Act shall be  
34 applicable to all taxable years beginning after December 31, 2000.



1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2001.