

SENATE BILL 411

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2002 Regular Session  
2lr0311

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By: **Senators Neall, Astle, Baker, Blount, Colburn, Collins, Conway, Currie, DeGrange, Della, Dorman, Dyson, Exum, Ferguson, Forehand, Frosh, Green, Hafer, Haines, Harris, Hoffman, Hogan, Hollinger, Hooper, Hughes, Jacobs, Jimeno, Kasemeyer, Kelley, Kittleman, Lawlah, Middleton, Mitchell, Mooney, Munson, Pinsky, Roesser, Ruben, Schrader, Sfikas, Stoltzfus, Stone, Teitelbaum, and Van Hollen**

Introduced and read first time: January 30, 2002

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 22, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Nonprofit Health Service Plans - Financial Audit to Determine Value of**  
3 **Public Benefits**

4 FOR the purpose of requiring the Maryland Insurance Commissioner, in consultation  
5 with the Legislative Auditor, to contract by a certain date with an independent  
6 consultant that has certain expertise to perform a certain financial audit to  
7 determine the value of public benefits received by nonprofit health service  
8 plans; specifying the contents of the retrospective audit; requiring the  
9 independent consultant to make a certain report on the findings of the  
10 retrospective audit by a certain date; providing for the application of this Act;  
11 defining certain terms; and generally relating to nonprofit health service plans  
12 and a certain financial audit to determine the value of public benefits received  
13 by nonprofit health service plans.

14 BY adding to  
15 Article - Insurance  
16 Section 14-121.1  
17 Annotated Code of Maryland  
18 (1997 Volume and 2001 Supplement)

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

1

**Article - Insurance**

2 14-121.1.

3 (A) THIS SECTION DOES NOT APPLY TO A NONPROFIT HEALTH SERVICE PLAN  
4 THAT INSURES FEWER THAN 10,000 COVERED INDIVIDUALS IN THE STATE.

5 (B) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (2) "COMMISSION" MEANS THE STATE HEALTH SERVICES COST REVIEW  
8 COMMISSION.

9 (3) "NONPROFIT HEALTH SERVICE PLAN" INCLUDES A SUBSIDIARY OR  
10 AFFILIATE OF A NONPROFIT HEALTH SERVICE PLAN.

11 (4) "SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE  
12 DIFFERENTIAL" OR "SAAC DIFFERENTIAL" MEANS THE DIFFERENCE BETWEEN WHAT  
13 THE NONPROFIT HEALTH SERVICE PLAN WOULD HAVE PAID FOR HOSPITAL  
14 SERVICES WITHOUT THE SAAC DIFFERENTIAL, AND WHAT THE NONPROFIT HEALTH  
15 SERVICE PLAN PAID FOR HOSPITAL SERVICES WITH THE SAAC DIFFERENTIAL.

16 (5) "SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE PRODUCT"  
17 OR "SAAC PRODUCT" MEANS A HEALTH BENEFIT PLAN OFFERED IN THE NONGROUP  
18 MARKET ON AN OPEN ENROLLMENT BASIS AS REQUIRED BY THE COMMISSION TO  
19 QUALIFY FOR THE SAAC DIFFERENTIAL.

20 (C) ON OR BEFORE AUGUST 1, 2002, THE COMMISSIONER, IN CONSULTATION  
21 WITH THE LEGISLATIVE AUDITOR, SHALL CONTRACT WITH AN INDEPENDENT  
22 CONSULTANT THAT HAS EXPERTISE IN HEALTH CARE ECONOMICS TO PERFORM A  
23 5-YEAR RETROSPECTIVE FINANCIAL AUDIT TO DETERMINE THE VALUE OF PUBLIC  
24 BENEFITS RECEIVED BY NONPROFIT HEALTH SERVICE PLANS IN THE STATE AS  
25 PROVIDED IN THIS SECTION.

26 (D) THE RETROSPECTIVE FINANCIAL AUDIT REQUIRED IN SUBSECTION (C) OF  
27 THIS SECTION SHALL PROVIDE A 5-YEAR:

28 (1) VALUATION OF THE ANNUAL FINANCIAL BENEFIT OF ANY SAAC  
29 DIFFERENTIAL AUTHORIZED BY THE COMMISSION AS COMPARED TO THE ANNUAL  
30 VALUE OF ANY SUBSIDIES OF SAAC PRODUCT PREMIUMS PROVIDED TO ENROLLEES  
31 IN THE SAAC PRODUCT OFFERED BY A NONPROFIT HEALTH SERVICE PLAN; ~~AND~~

32 ~~(2) ASSESSMENT OF THE FINANCIAL COST TO THE STATE OF ANY~~  
33 ~~WITHDRAWAL OF A NONPROFIT HEALTH SERVICE PLAN FROM PARTICIPATION AS A~~  
34 ~~MANAGED CARE ORGANIZATION IN THE STATE MEDICAL ASSISTANCE PROGRAM~~  
35 ~~UNDER TITLE 15 OF THE HEALTH - GENERAL ARTICLE, INCLUDING COSTS INCURRED~~  
36 ~~BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR:~~

1                   ~~(I)     THE AUTOMATIC ASSIGNMENT OF ENROLLEES AFFECTED BY~~  
2 ~~THE WITHDRAWAL OF THE NONPROFIT HEALTH SERVICE PLAN TO ALTERNATIVE~~  
3 ~~MANAGED CARE ORGANIZATIONS;~~

4                   ~~(II)    THE VOLUNTARY SELECTION OF AN ALTERNATIVE MANAGED~~  
5 ~~CARE ORGANIZATION BY ENROLLEES AFFECTED BY THE WITHDRAWAL OF THE~~  
6 ~~NONPROFIT HEALTH SERVICE PLAN;~~

7                   ~~(III)   ANY MARKETING OR ADVERTISING COSTS INCURRED TO~~  
8 ~~FACILITATE THE TRANSITION OF ENROLLEES AFFECTED BY THE WITHDRAWAL OF~~  
9 ~~THE NONPROFIT HEALTH SERVICE PLAN;~~

10                  ~~(IV)    ADDITIONAL SCREENING COSTS INCURRED IN TRANSITIONING~~  
11 ~~THE ENROLLEES AFFECTED BY THE WITHDRAWAL OF THE NONPROFIT HEALTH~~  
12 ~~SERVICE PLAN TO ALTERNATIVE MANAGED CARE ORGANIZATIONS; AND~~

13                  ~~(V)     ANY ADDITIONAL COSTS TO THE STATE FOR PROVIDING~~  
14 ~~ENHANCED OR INCREASED RATES TO MANAGED CARE ORGANIZATIONS WHO~~  
15 ~~ACCEPTED ENROLLEES AFFECTED BY THE WITHDRAWAL OF THE NONPROFIT~~  
16 ~~HEALTH SERVICE PLAN; AND~~

17                  ~~(3)     (2)    CALCULATION OF ANY TAX LIABILITY THAT WOULD BE OWED~~  
18 ~~BY A NONPROFIT HEALTH SERVICE PLAN AS THE RESULT OF NOT MEETING THE~~  
19 ~~DEFINITION OF "NONPROFIT HEALTH SERVICE PLAN CORPORATION" FOR THE~~  
20 ~~PURPOSES OF QUALIFYING FOR A PREMIUM TAX EXEMPTION UNDER THIS ARTICLE;~~  
21 ~~AND~~

22                  ~~(3)     CALCULATION OF ANY STATE INCOME TAX LIABILITY THAT WOULD~~  
23 ~~BE OWED BY A NONPROFIT HEALTH SERVICE PLAN AS A RESULT OF BEING SUBJECT~~  
24 ~~TO THE STATE INCOME TAX IN THE SAME MANNER AS IT WAS SUBJECT TO THE~~  
25 ~~FEDERAL INCOME TAX.~~

26                  (E)     ON OR BEFORE DECEMBER 1, 2002, THE INDEPENDENT CONSULTANT  
27 SHALL REPORT THE FINDINGS OF THE FINANCIAL AUDIT TO THE COMMISSIONER, TO  
28 THE LEGISLATIVE AUDITOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE  
29 GOVERNMENT ARTICLE, TO THE GOVERNOR AND THE GENERAL ASSEMBLY.

30                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 June 1, 2002.