

SENATE BILL 413

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2002 Regular Session  
2lr0293

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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, McFadden, 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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A BILL ENTITLED

1 AN ACT concerning

2                                   **Health Insurance - Substantial, Available, and Affordable Coverage**  
3                                   **Products - Reform**

4 FOR the purpose of requiring the Maryland Insurance Commissioner to notify the  
5 State Health Services Cost Review Commission of certain health insurance  
6 carriers that apply for approval of a Substantial, Available, and Affordable  
7 Coverage (SAAC) product, or have a SAAC product that has been approved,  
8 under certain provisions of law; making a certain tax exemption for nonprofit  
9 health service plans subject to a certain requirement; requiring certain  
10 nonprofit health service plans to submit an annual report by a certain date;  
11 authorizing the Insurance Commission to permit a certain report to be filed as a  
12 part of another report; providing that certain nonprofit health service plans  
13 have a certain amount of time to comply with a certain order; providing that an  
14 applicant for a certificate of authority as a nonprofit health service plan shall  
15 satisfy the Commission that the nonprofit health service plan offers or will offer  
16 a SAAC product that has been approved under certain provisions of law;  
17 specifying procedures for applying for approval of a SAAC product; specifying  
18 the requirements a SAAC product must meet to qualify for approval; requiring  
19 the State Health Services Cost Review Commission to grant a certain  
20 differential to a carrier that has an approved SAAC product; specifying the  
21 circumstances under which a carrier must submit a corrective plan to the  
22 Commission; authorizing a corrective plan to provide for certain actions;  
23 requiring a carrier to pay a certain amount to the Commission or the  
24 Commission's designee if the carrier stops offering a SAAC product; requiring a  
25 carrier that sends a letter of declination to an applicant for medically  
26 underwritten health insurance in the nongroup market to send the applicant  
27 certain information about the availability of SAAC products in the nongroup  
28 market; authorizing the Commissioner and the Commission to adopt certain  
29 regulations; providing for the application of certain provisions of this Act;  
30 defining certain terms; providing for the effective date of certain provisions of

1 this Act; providing for the termination of certain provisions of this Act; and  
2 generally relating to Substantial, Available, and Affordable Coverage products  
3 in the nongroup health insurance market.

4 BY adding to  
5 Article - Health - General  
6 Section 19-214.1 and 19-706(ww)  
7 Annotated Code of Maryland  
8 (2000 Replacement Volume and 2001 Supplement)

9 BY repealing and reenacting, without amendments,  
10 Article - Insurance  
11 Section 6-101(b)(1)  
12 Annotated Code of Maryland  
13 (1997 Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 14-106, 14-107, 14-110, and 15-606  
17 Annotated Code of Maryland  
18 (1997 Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Insurance  
21 Section 15-606  
22 Annotated Code of Maryland  
23 (1997 Volume and 2001 Supplement)  
24 (As enacted by Chapters 134 and 135 of the Acts of the General Assembly of  
25 2001)

26 BY adding to  
27 Article - Insurance  
28 Section 15-131; and 15-6A-01 through 15-6A-03 and 15-6A-05 to be under the  
29 new subtitle "Subtitle 6A. Substantial, Available, and Affordable Coverage  
30 Products"  
31 Annotated Code of Maryland  
32 (1997 Volume and 2001 Supplement)

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

**Article - Health - General**

19-214.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CARRIER" MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN;

(III) A HEALTH MAINTENANCE ORGANIZATION;

(IV) A DENTAL PLAN ORGANIZATION; OR

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

(3) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

(4) "SAAC PRODUCT" HAS THE MEANING STATED IN § 15-6A-01 OF THE INSURANCE ARTICLE.

(5) "SUBSIDY" MEANS THE AMOUNT OF HEALTH CARE EXPENDITURES PAID BY A CARRIER THAT EXCEEDS 70% OF THE PREMIUM EARNED FOR THE SAAC PRODUCT BY THE CARRIER.

(6) "VALUE OF THE DIFFERENTIAL" MEANS THE DIFFERENCE BETWEEN WHAT THE CARRIER WOULD HAVE PAID FOR HOSPITAL SERVICES WITHOUT THE DIFFERENTIAL, AND WHAT THE CARRIER PAID FOR HOSPITAL SERVICES WITH THE DIFFERENTIAL.

(B) THE COMMISSIONER SHALL NOTIFY THE COMMISSION OF EACH CARRIER THAT:

(1) APPLIES FOR APPROVAL OF A SAAC PRODUCT UNDER § 15-6A-03 OF THE INSURANCE ARTICLE; OR

(2) HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03 OF THE INSURANCE ARTICLE.

(C) (1) THE COMMISSION SHALL GRANT UP TO A 4% DIFFERENTIAL TO A CARRIER THAT HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03 OF THE INSURANCE ARTICLE.

(2) IF THE VALUE OF THE DIFFERENTIAL IS EQUAL TO OR LESS THAN 62.5% OF THE SUBSIDY, THE CARRIER HAS EARNED THE DIFFERENTIAL.

1 (3) IF THE VALUE OF THE DIFFERENTIAL IS GREATER THAN 62.5% OF  
2 THE SUBSIDY, THE CARRIER SHALL SUBMIT A CORRECTIVE PLAN TO THE  
3 COMMISSION, FOR APPROVAL BY THE COMMISSION, IN CONSULTATION WITH THE  
4 COMMISSIONER.

5 (D) A CORRECTIVE PLAN UNDER SUBSECTION (C)(3) OF THIS SECTION MAY  
6 PROVIDE FOR:

7 (1) PAYMENT BY THE CARRIER TO THE COMMISSION OR THE  
8 COMMISSION'S DESIGNEE IN THE AMOUNT BY WHICH THE VALUE OF THE  
9 DIFFERENTIAL EXCEEDS THE SUBSIDY;

10 (2) A REDUCTION IN THE DIFFERENTIAL GIVEN TO THE CARRIER; OR

11 (3) ANY OTHER ACTION APPROVED BY THE COMMISSION, IN  
12 CONSULTATION WITH THE COMMISSIONER.

13 (E) IF A CARRIER STOPS OFFERING A SAAC PRODUCT, THE CARRIER SHALL  
14 PAY TO THE COMMISSION OR THE COMMISSION'S DESIGNEE THE AMOUNT BY WHICH  
15 THE VALUE OF THE DIFFERENTIAL EXCEEDS 62.5% OF THE SUBSIDY.

16 (F) THE COMMISSION MAY ADOPT REGULATIONS TO IMPLEMENT THIS  
17 SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
19 read as follows:

20 **Article - Health - General**

21 19-706.

22 (WW) THE PROVISIONS OF § 15-131 AND TITLE 15, SUBTITLE 6A OF THE  
23 INSURANCE ARTICLE SHALL APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

24 **Article - Insurance**

25 6-101.

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

27 (1) a nonprofit health service plan corporation that meets the  
28 requirements established under §§ 14-106 and 14-107 of this article;

29 14-106.

30 (a) It is the public policy of this State that the exemption from taxation for  
31 nonprofit health service plans under § 6-101(b)(1) of this article is granted so that  
32 funds which would otherwise be collected by the State and spent for a public purpose  
33 shall be used in a like manner and amount by the nonprofit health service plan.

1 (b) This section does not apply to a nonprofit health service plan that insures  
2 fewer than 10,000 covered lives in Maryland.

3 (c) By March 1 of each year or a deadline otherwise imposed by the  
4 Commissioner for good cause, each nonprofit health service plan shall file with the  
5 Commissioner a premium tax exemption report that:

6 (1) is in a form approved by the Commissioner; and

7 (2) demonstrates that the plan has used funds equal to the value of the  
8 premium tax exemption provided to the plan under § 6-101(b) of this article, in a  
9 manner that serves the public interest in accordance with subsection (d) of this  
10 section.

11 (d) (1) BY MARCH 1 OF EACH YEAR OR A DEADLINE OTHERWISE IMPOSED  
12 BY THE COMMISSIONER FOR GOOD CAUSE, EACH NONPROFIT HEALTH SERVICE PLAN  
13 SHALL FILE WITH THE COMMISSIONER A PREMIUM TAX EXEMPTION REPORT THAT  
14 DEMONSTRATES THAT THE NONPROFIT HEALTH SERVICE PLAN HAS A SAAC  
15 PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03 OF THIS ARTICLE.

16 (2) THE COMMISSIONER MAY AUTHORIZE A NONPROFIT HEALTH  
17 SERVICE PLAN TO FILE THE REPORT REQUIRED UNDER THIS SUBSECTION AS PART  
18 OF THE REPORT FILED UNDER SUBSECTION (C) OF THIS SECTION.

19 (E) Except as provided in subsection [(e)] (F) of this section, a nonprofit health  
20 service plan may satisfy the public service requirement in subsection (c)(2) of this  
21 section by establishing that the plan has:

22 (1) increased access to, or the affordability of, one or more health care  
23 products or services by offering and selling health care products or services that are  
24 not required or provided for by law; or

25 (2) served the public interest by any method or practice approved by the  
26 Commissioner.

27 [(e)] (F) The Commissioner may not consider the fact that a nonprofit health  
28 service plan offers a product through the substantial, available, affordable coverage  
29 program when determining whether the plan has satisfied the requirements of  
30 subsection (c)(2) of this section.

31 [(f)] (G) Each report filed with the Commissioner under [subsection]  
32 SUBSECTIONS (c) AND (D) of this section is a public record.

33 14-107.

34 (a) By November 1 of each year, the Commissioner shall issue an order  
35 notifying each nonprofit health service plan that is required to file [a report] THE  
36 REPORTS REQUIRED under § 14-106 of this subtitle of whether the plan has satisfied  
37 the requirements of § 14-106 of this subtitle.

1 (b) (1) If the Commissioner determines that a nonprofit health service plan  
2 has not satisfied the requirements of § 14-106 of this subtitle, the nonprofit health  
3 service plan shall have 1 year from the date the Commissioner issued the order under  
4 subsection (a) of this section to comply with the requirements of § 14-106 of this  
5 subtitle.

6 (2) If after the time period provided under paragraph (1) of this  
7 subsection the Commissioner determines that a nonprofit health service plan has not  
8 satisfied the requirements of § 14-106 of this subtitle[:

9 (i) the Commissioner shall report the determination to the House  
10 Economic Matters Committee and the Senate Finance Committee, including the  
11 reasons for the determination; and

12 (ii) if required by an act of the General Assembly], the nonprofit  
13 health service plan shall be subject to the premium tax under Title 6, Subtitle 1 of  
14 this article FOR THE TAXABLE YEAR IN WHICH THE COMMISSIONER MAKES THE  
15 DETERMINATION.

16 (c) A nonprofit health service plan that fails to timely file the [report]  
17 REPORTS required under § 14-106 of this subtitle:

18 (1) shall pay the penalties under § 14-121 of this subtitle; AND

19 (2) MAY BE SUBJECT TO AN ORDER REQUIRING THE PLAN TO PAY THE  
20 PREMIUM TAX.

21 (d) A party aggrieved by an order of the Commissioner issued under this  
22 section has a right to a hearing in accordance with §§ 2-210 through 2-215 of this  
23 article.

24 14-110.

25 The Commissioner shall issue a certificate of authority to an applicant if:

26 (1) the applicant has paid the applicable fee required by § 2-112 of this  
27 article; and

28 (2) the Commissioner is satisfied:

29 (i) that the applicant has been organized in good faith for the  
30 purpose of establishing, maintaining, and operating a nonprofit health service plan;

31 (ii) that:

32 1. each contract executed or proposed to be executed by the  
33 applicant and a health care provider to furnish health care services to subscribers to  
34 the nonprofit health service plan, obligates or, when executed, will obligate each  
35 health care provider party to the contract to render the health care services to which

1 each subscriber is entitled under the terms and conditions of the various contracts  
 2 issued or proposed to be issued by the applicant to subscribers to the plan; and

3 2. each subscriber is entitled to reimbursement for podiatric,  
 4 chiropractic, psychological, or optometric services, regardless of whether the service is  
 5 performed by a licensed physician, licensed podiatrist, licensed chiropractor, licensed  
 6 psychologist, or licensed optometrist;

7 (iii) that:

8 1. each contract issued or proposed to be issued to  
 9 subscribers to the plan is in a form approved by the Commissioner; and

10 2. the rates charged or proposed to be charged for each form  
 11 of each contract are fair and reasonable; [and]

12 (iv) that the applicant has a surplus, as defined in § 14-117 of this  
 13 subtitle, of the greater of:

14 1. \$100,000; and

15 2. an amount equal to that required under § 14-117 of this  
 16 subtitle; AND

17 (V) THAT EXCEPT FOR A NONPROFIT HEALTH SERVICE PLAN THAT  
 18 INSURES FEWER THAN 10,000 COVERED LIVES IN THE STATE, THE NONPROFIT  
 19 HEALTH SERVICE PLAN OFFERS OR WILL OFFER A SAAC PRODUCT, AS DEFINED IN §  
 20 15-6A-01 OF THIS ARTICLE, THAT HAS BEEN APPROVED UNDER § 15-6A-03 OF THIS  
 21 ARTICLE.

22 15-131.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 24 INDICATED.

25 (2) "CARRIER" MEANS:

26 (I) AN INSURER;

27 (II) A NONPROFIT HEALTH SERVICE PLAN;

28 (III) A HEALTH MAINTENANCE ORGANIZATION;

29 (IV) A DENTAL PLAN ORGANIZATION; OR

30 (V) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS  
 31 SUBJECT TO REGULATION BY THE STATE.

32 (3) "SAAC PRODUCT" HAS THE MEANING STATED IN § 15-6A-01 OF THIS  
 33 TITLE.

1 (B) THIS SECTION APPLIES TO CARRIERS THAT OFFER MEDICALLY  
2 UNDERWRITTEN HEALTH INSURANCE IN THE NONGROUP MARKET IN THE STATE.

3 (C) (1) A CARRIER SUBJECT TO THIS SECTION THAT SENDS A LETTER OF  
4 DECLINATION TO AN APPLICANT FOR MEDICALLY UNDERWRITTEN HEALTH  
5 INSURANCE IN THE NONGROUP MARKET SHALL SEND TO THE APPLICANT  
6 INFORMATION ABOUT THE AVAILABILITY OF SAAC PRODUCTS IN THE NONGROUP  
7 MARKET.

8 (2) THE INFORMATION SHALL BE IN THE FORM, AND SHALL BE SENT IN  
9 THE MANNER, THAT THE COMMISSIONER REQUIRES.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
11 read as follows:

12 **Article - Insurance**

13 **SUBTITLE 6A. SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE PRODUCTS.**  
14 15-6A-01.

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

17 (B) "CARRIER" MEANS:

18 (1) AN INSURER;

19 (2) A NONPROFIT HEALTH SERVICE PLAN;

20 (3) A HEALTH MAINTENANCE ORGANIZATION;

21 (4) A DENTAL PLAN ORGANIZATION; OR

22 (5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS  
23 SUBJECT TO REGULATION BY THE STATE.

24 (C) "COMMISSION" MEANS THE STATE HEALTH SERVICES COST REVIEW  
25 COMMISSION.

26 (D) "SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE PRODUCT" OR  
27 "SAAC PRODUCT" MEANS A HEALTH BENEFIT PLAN THAT:

28 (1) IS OFFERED IN THE NONGROUP MARKET;

29 (2) IS OFFERED ON AN OPEN ENROLLMENT BASIS;

30 (3) INCLUDES BENEFITS IN ACCORDANCE WITH THE PLAN  
31 ESTABLISHED UNDER § 15-6A-04 OF THIS SUBTITLE; AND

1 (4) IS PRICED AT LEAST 5% HIGHER THAN THE PREMIUMS OF THE  
2 GREATER OF:

3 (I) ANY COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN  
4 ISSUED BY THE CARRIER PURSUANT TO § 15-1207 OF THIS TITLE; OR

5 (II) A BENEFIT-EQUIVALENT MEDICALLY UNDERWRITTEN  
6 INDIVIDUAL PRODUCT OFFERED BY THE CARRIER.

7 (E) "VALUE OF THE DIFFERENTIAL" MEANS THE DIFFERENCE BETWEEN  
8 WHAT THE CARRIER WOULD HAVE PAID FOR HOSPITAL SERVICES WITHOUT THE  
9 DIFFERENTIAL, AND WHAT THE CARRIER PAID FOR HOSPITAL SERVICES WITH THE  
10 DIFFERENTIAL.

11 15-6A-02.

12 THE COMMISSIONER SHALL NOTIFY THE COMMISSION OF EACH CARRIER THAT:

13 (1) APPLIES FOR APPROVAL OF A SAAC PRODUCT UNDER § 15-6A-03 OF  
14 THIS SUBTITLE; OR

15 (2) HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03  
16 OF THIS SUBTITLE.

17 15-6A-03.

18 (A) TO APPLY FOR APPROVAL OF A SAAC PRODUCT, A CARRIER SHALL SUBMIT  
19 TO THE COMMISSIONER AN APPLICATION ON THE FORM THE COMMISSIONER  
20 REQUIRES AND EVIDENCE THAT THE CARRIER'S SAAC PRODUCT COMPLIES WITH  
21 THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

22 (B) TO QUALIFY FOR APPROVAL, A SAAC PRODUCT SHALL:

23 (1) BE ADVERTISED BY THE CARRIER DURING AT LEAST TWO OPEN  
24 ENROLLMENT PERIODS PER YEAR, FOR A DURATION OF 1 MONTH PER OPEN  
25 ENROLLMENT PERIOD;

26 (2) HAVE AGE OR GEOGRAPHY BANDING OF ITS COMMUNITY RATE THAT  
27 IS CONSISTENT WITH § 15-1205 OF THIS TITLE; AND

28 (3) COMPLY WITH ANY REGULATIONS ADOPTED BY THE COMMISSIONER  
29 AND THE COMMISSION.

30 [15-606.] 15-6A-04.

31 (a) [In this section, "carrier" means:

32 (1) an insurer;

33 (2) a nonprofit health service plan;

1 (3) a health maintenance organization; or

2 (4) any other person that provides health benefit plans subject to  
3 regulation by the State.

4 (b) (1) The Maryland Health Care Commission shall adopt regulations that  
5 specify a COMPREHENSIVE HEALTH BENEFITS plan for substantial, available, and  
6 affordable coverage that shall be offered in the nongroup market by a carrier that  
7 qualifies for an approved [purchaser] differential under § 19-214.1 OF THE HEALTH -  
8 GENERAL ARTICLE AND regulations adopted by the [Health Services Cost Review]  
9 COMMISSIONER AND THE Commission.

10 [(2)] (B) In establishing a plan under this [subsection,] SECTION, the  
11 Maryland Health Care Commission shall judge preventive services, medical  
12 treatments, procedures, and related health services based on:

13 [(i)] (1) their effectiveness in improving the health of individuals;

14 [(ii)] (2) their impact on maintaining and improving health and  
15 encouraging consumers to use only the health care services they need; and

16 [(iii)] (3) their impact on the affordability of health care coverage.

17 [(3)] (C) The Maryland Health Care Commission may exclude from the  
18 plan:

19 [(i)] (1) a health care service, benefit, coverage, or reimbursement  
20 for covered health care services that is required under this article or the Health -  
21 General Article to be provided or offered in a health benefit plan that is issued or  
22 delivered in the State by a carrier; or

23 [(ii)] (2) reimbursement required by statute, by a health benefit  
24 plan for a service when that service is performed by a health care provider who is  
25 licensed under the Health Occupations Article and whose scope of practice includes  
26 that service.

27 [(4)] (D) The plan shall include uniform deductibles and cost-sharing  
28 associated with its benefits, as determined by the Maryland Health Care  
29 Commission.

30 [(5)] (E) In establishing cost-sharing as part of the plan, the Maryland  
31 Health Care Commission shall:

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

34 [(ii)] (2) balance the effect of cost-sharing in reducing premiums  
35 and in affecting utilization of appropriate services; and

1 [(iii)] (3) limit the total cost-sharing that may be incurred by an  
2 individual in a year.

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

8 [(2) (i)] (2) The total contributions to be made to the Short-Term  
9 Prescription Drug Subsidy Plan by all carriers participating in the substantial,  
10 available, and affordable coverage differential program shall be equal to 37.5 percent  
11 of the value of the differential provided to all carriers that offer substantial, available,  
12 and affordable coverage in the nongroup insurance market.

13 [(ii) 1.] (3) (I) Each carrier participating in the substantial,  
14 available, and affordable coverage differential program shall contribute an amount to  
15 the Short-Term Prescription Drug Subsidy Plan that is equal to 37.5 percent of the  
16 value of the differential provided to that carrier during the previous year.

17 [2.] (II) On or before July 1 of each year, the Health Services  
18 Cost Review Commission shall calculate each carrier's contribution and assess the  
19 contribution as provided in this subsection.

20 [(iii) 1.] (4) (I) The last carrier to provide Medicare Plus Choice  
21 coverage in medically underserved counties shall use an amount equal to the  
22 contribution derived under subparagraph (ii) of this paragraph to provide the  
23 Short-Term Prescription Drug Subsidy Plan created under Title 15, Subtitle 6 of the  
24 Health - General Article.

25 [2.] (II) The carrier is not required, in providing the plan  
26 under this subparagraph, to offer any other benefit otherwise required under Title 19,  
27 Subtitle 7 of the Health - General Article or Subtitle 8 of this title.

28 [(iv)] (5) The Health Services Cost Review Commission shall  
29 annually assess each carrier for the carrier's contribution and shall transfer the  
30 contribution to the Treasurer of the State, for payment into the Short-Term  
31 Prescription Drug Subsidy Fund created under § 15-604 of the Health - General  
32 Article.

33 15-6A-05.

34 THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS  
35 SUBTITLE.

36 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
37 read as follows:

**Article - Health - General**

1

2 19-214.1.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "CARRIER" MEANS:

6 (I) AN INSURER;

7 (II) A NONPROFIT HEALTH SERVICE PLAN;

8 (III) A HEALTH MAINTENANCE ORGANIZATION;

9 (IV) A DENTAL PLAN ORGANIZATION; OR

10 (V) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS  
11 SUBJECT TO REGULATION BY THE STATE.

12 (3) "COMMISSIONER" MEANS THE MARYLAND INSURANCE  
13 COMMISSIONER.

14 (4) "SAAC PRODUCT" HAS THE MEANING STATED IN § 15-6A-01 OF THE  
15 INSURANCE ARTICLE.

16 (5) "SUBSIDY" MEANS THE AMOUNT OF HEALTH CARE EXPENDITURES  
17 PAID BY A CARRIER THAT EXCEEDS 70% OF THE PREMIUM EARNED FOR THE SAAC  
18 PRODUCT BY THE CARRIER.

19 (6) "VALUE OF THE DIFFERENTIAL" MEANS THE DIFFERENCE BETWEEN  
20 WHAT THE CARRIER WOULD HAVE PAID FOR HOSPITAL SERVICES WITHOUT THE  
21 DIFFERENTIAL, AND WHAT THE CARRIER PAID FOR HOSPITAL SERVICES WITH THE  
22 DIFFERENTIAL.

23 (B) THE COMMISSIONER SHALL NOTIFY THE COMMISSION OF EACH CARRIER  
24 THAT:

25 (1) APPLIES FOR APPROVAL OF A SAAC PRODUCT UNDER § 15-6A-03 OF  
26 THE INSURANCE ARTICLE; OR

27 (2) HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03  
28 OF THE INSURANCE ARTICLE.

29 (C) (1) THE COMMISSION SHALL GRANT UP TO A 2% DIFFERENTIAL TO A  
30 CARRIER THAT HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03  
31 OF THE INSURANCE ARTICLE.

32 (2) IF THE VALUE OF THE DIFFERENTIAL IS EQUAL TO OR LESS THAN  
33 THE SUBSIDY, THE CARRIER HAS EARNED THE DIFFERENTIAL.

1 (3) IF THE VALUE OF THE DIFFERENTIAL IS GREATER THAN THE  
2 SUBSIDY, THE CARRIER SHALL SUBMIT A CORRECTIVE PLAN TO THE COMMISSION,  
3 FOR APPROVAL BY THE COMMISSION, IN CONSULTATION WITH THE COMMISSIONER.

4 (D) A CORRECTIVE PLAN UNDER SUBSECTION (C)(3) OF THIS SECTION MAY  
5 PROVIDE FOR:

6 (1) PAYMENT BY THE CARRIER TO THE COMMISSION OR THE  
7 COMMISSION'S DESIGNEE IN THE AMOUNT BY WHICH THE VALUE OF THE  
8 DIFFERENTIAL EXCEEDS THE SUBSIDY;

9 (2) A REDUCTION IN THE DIFFERENTIAL GIVEN TO THE CARRIER; OR

10 (3) ANY OTHER ACTION APPROVED BY THE COMMISSION, IN  
11 CONSULTATION WITH THE COMMISSIONER.

12 (E) IF A CARRIER STOPS OFFERING A SAAC PRODUCT, THE CARRIER SHALL  
13 PAY TO THE COMMISSION OR THE COMMISSION'S DESIGNEE THE AMOUNT BY WHICH  
14 THE VALUE OF THE DIFFERENTIAL EXCEEDS THE SUBSIDY.

15 (F) THE COMMISSION MAY ADOPT REGULATIONS TO IMPLEMENT THIS  
16 SECTION.

17 **Article - Insurance**

18 SUBTITLE 6A. SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE PRODUCTS.

19 15-6A-01.

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

22 (B) "CARRIER" MEANS:

23 (1) AN INSURER;

24 (2) A NONPROFIT HEALTH SERVICE PLAN;

25 (3) A HEALTH MAINTENANCE ORGANIZATION;

26 (4) A DENTAL PLAN ORGANIZATION; OR

27 (5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS  
28 SUBJECT TO REGULATION BY THE STATE.

29 (C) "COMMISSION" MEANS THE STATE HEALTH SERVICES COST REVIEW  
30 COMMISSION.

31 (D) "SUBSTANTIAL, AVAILABLE, AND AFFORDABLE COVERAGE PRODUCT" OR  
32 "SAAC PRODUCT" MEANS A HEALTH BENEFIT PLAN THAT:

- 1 (1) IS OFFERED IN THE NONGROUP MARKET;
- 2 (2) IS OFFERED ON AN OPEN ENROLLMENT BASIS;
- 3 (3) INCLUDES BENEFITS IN ACCORDANCE WITH THE PLAN  
4 ESTABLISHED UNDER § 15-6A-04 OF THIS SUBTITLE; AND
- 5 (4) IS PRICED AT LEAST 5% HIGHER THAN THE PREMIUMS OF THE  
6 GREATER OF:
- 7 (I) ANY COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN  
8 ISSUED BY THE CARRIER PURSUANT TO § 15-1207 OF THIS TITLE; OR
- 9 (II) A BENEFIT-EQUIVALENT MEDICALLY UNDERWRITTEN  
10 INDIVIDUAL PRODUCT OFFERED BY THE CARRIER.
- 11 (E) "VALUE OF THE DIFFERENTIAL" MEANS THE DIFFERENCE BETWEEN  
12 WHAT THE CARRIER WOULD HAVE PAID FOR HOSPITAL SERVICES WITHOUT THE  
13 DIFFERENTIAL, AND WHAT THE CARRIER PAID FOR HOSPITAL SERVICES WITH THE  
14 DIFFERENTIAL.
- 15 15-6A-02.
- 16 THE COMMISSIONER SHALL NOTIFY THE COMMISSION OF EACH CARRIER THAT:
- 17 (1) APPLIES FOR APPROVAL OF A SAAC PRODUCT UNDER § 15-6A-03 OF  
18 THIS SUBTITLE; OR
- 19 (2) HAS A SAAC PRODUCT THAT HAS BEEN APPROVED UNDER § 15-6A-03  
20 OF THIS SUBTITLE.
- 21 15-6A-03.
- 22 (A) TO APPLY FOR APPROVAL OF A SAAC PRODUCT, A CARRIER SHALL SUBMIT  
23 TO THE COMMISSIONER AN APPLICATION ON THE FORM THE COMMISSIONER  
24 REQUIRES AND EVIDENCE THAT THE CARRIER'S SAAC PRODUCT COMPLIES WITH  
25 THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.
- 26 (B) TO QUALIFY FOR APPROVAL, A SAAC PRODUCT SHALL:
- 27 (1) BE ADVERTISED BY THE CARRIER DURING AT LEAST TWO OPEN  
28 ENROLLMENT PERIODS PER YEAR, FOR A DURATION OF 1 MONTH PER OPEN  
29 ENROLLMENT PERIOD;
- 30 (2) HAVE AGE OR GEOGRAPHY BANDING OF ITS COMMUNITY RATE THAT  
31 IS CONSISTENT WITH § 15-1205 OF THIS TITLE; AND
- 32 (3) COMPLY WITH ANY REGULATIONS ADOPTED BY THE COMMISSIONER  
33 AND THE COMMISSION.

1 [15-606.] 15-6A-04.

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 created under Title 15, Subtitle 6 of the Health -  
11 General Article.

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

15 (ii) 1. Each carrier participating in the substantial, affordable,  
16 and available coverage differential program shall contribute an amount to the  
17 Short-Term Prescription Drug Subsidy Plan that is equal to the total derived by  
18 multiplying \$5.4 million by the percentage of the total benefit to all carriers from the  
19 substantial, affordable, and available coverage differential that the carrier receives on  
20 January 1, 2000.

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

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

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

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

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

1 15-6A-05.

2 THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THIS  
3 SUBTITLE.

4 SECTION 5. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall  
5 take effect on the taking effect of the termination provisions specified in Section 12 of  
6 Chapters 134 and 135 of the Acts of the General Assembly of 2001. If these  
7 termination provisions take effect, Sections 1 and 3 of this Act shall be abrogated and  
8 of no further force and effect. This Act may not be interpreted to have any effect on  
9 those termination provisions.

10 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions  
11 of Section 5 of this Act, this Act shall take effect July 1, 2002.