

SENATE BILL 737

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SB 557/03 - FIN

2004 Regular Session
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By: **Senators McFadden, Britt, Forehand, Frosh, Gladden, Green, Grosfeld,
Hollinger, Jones, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: February 6, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnership for Health Coverage for All Marylanders**

3 FOR the purpose of expanding eligibility under the Maryland Medical Assistance
4 Program to parents at or below a certain income, subject to certain limitations;
5 including uninsured individuals in the Maryland Pharmacy Discount Program;
6 including all individuals under a certain age in the Maryland Children's Health
7 Program (MCHP); altering the MCHP premium plan to apply to certain
8 individuals whose family income is above a certain income; providing that an
9 individual is not eligible for the MCHP premium plan if a parent or guardian is
10 insured through an employer's health benefit plan that meets certain
11 conditions; altering certain required family contribution amounts; requiring a
12 parent or guardian of an individual in the MCHP premium plan to pay a certain
13 premium determined by the Secretary of Health and Mental Hygiene under
14 certain circumstances; expanding a certain health insurance program to include
15 health benefit plans that cover certain individuals; requiring the
16 Comprehensive Standard Health Benefit Plan to include all benefits that
17 existed in the Plan as of a certain date; requiring the Maryland Health Care
18 Commission to exclude or limit additional benefits in the Plan if the average
19 rate for the Plan exceeds a certain average annual wage; altering the maximum
20 number of eligible employees a person may employ to be considered a small
21 employer in the Maryland Health Insurance Reform Act; altering the tobacco
22 tax rate for cigarettes; repealing certain referral procedures and treatment
23 required by the Alcohol and Drug Abuse Administration; repealing authority of
24 the Administration to establish or operate certain facilities and services;
25 requiring that the Department of Health and Mental Hygiene provide certain
26 mental health services to certain individuals under certain conditions; requiring
27 the Secretary of Health and Mental Hygiene to adopt certain regulations for
28 certain costs of receiving services; renaming the Maryland Health Insurance
29 Plan to be MdCare; providing for the status and purpose of MdCare;
30 establishing the Board of MdCare; providing for the composition and
31 appointment of members of the Board; authorizing employees of MdCare to
32 engage in collective bargaining; requiring MdCare to adopt certain regulations;
33 authorizing the Board of MdCare to aggregate the purchasing of prescription
34 drugs for certain enrollees; renaming the Maryland Health Insurance Plan

1 Fund to be the MdCare Fund; establishing eligibility requirements for MdCare;
2 requiring the MdCare Fund to include moneys appropriated in the State budget
3 to the MdCare Fund; repealing a provision that a debt or obligation of the Plan
4 is not a debt or pledge of credit of the State; prohibiting the benefit package
5 under MdCare from restricting certain days authorized for certain treatment;
6 requiring the benefit package under MdCare to include certain benefits and
7 services; repealing certain exclusions from the benefit package; requiring the
8 Board of MdCare to ensure that enrollees may select federally qualified health
9 centers and school based health centers as their primary care providers;
10 prohibiting the Board from charging a premium rate during a certain fiscal
11 year; prohibiting the Board from imposing any cost-sharing requirements,
12 deductibles, co-pays, and coinsurance on certain individuals for certain fiscal
13 years; prohibiting the Board from charging a premium rate for certain
14 individuals whose income is at or below a certain amount and requiring the
15 Board to establish a certain sliding scale premium rate for certain individuals
16 whose income is between certain amounts; repealing certain premium rate
17 requirements and requirements for a standard risk rate; requiring the Board to
18 select one or more administrators to administer MdCare; requiring the Board to
19 establish the Maryland Quality Institute; establishing the duties of the
20 Institute; establishing the MdCare Universal Coverage Oversight Commission;
21 providing for the purpose, composition, chairman, staff, and duties of the
22 Commission; requiring the Commission to submit certain reports on or before
23 certain dates; requiring the Board of MdCare to develop a certain
24 "electronic-Care Management" system; imposing a certain payroll tax on
25 employers in the State; allowing a credit against the payroll tax for certain
26 expenditures by an employer for health insurance for employees in the State;
27 exempting certain employers from the payroll tax under certain circumstances;
28 providing for administration and collection of the payroll tax by the Secretary of
29 Labor, Licensing, and Regulation; requiring an individual to pay certain
30 additional State income tax in certain amounts under certain circumstances;
31 providing for the distribution of certain additional State income tax;
32 establishing a certain special fund to dedicate certain tobacco tax revenues to
33 increase provider reimbursements in the Maryland Medical Assistance Program
34 and the Maryland Children's Health Program; requiring the Department of
35 Health and Mental Hygiene to seek certain approval for coverage expansion
36 under the Maryland Medical Assistance Program, the Maryland Pharmacy
37 Discount Program, and the Maryland Children's Health Program; providing for
38 certain contingencies; altering certain definitions; and generally relating to
39 health coverage for all Marylanders.

40 BY repealing and reenacting, with amendments,
41 Article - Health - General
42 Section 15-103(a)
43 Annotated Code of Maryland
44 (2000 Replacement Volume and 2003 Supplement)

45 BY repealing and reenacting, with amendments,
46 Article - Health - General

1 Section 15-124.1
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2003 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Health - General
6 Section 15-301 and 15-301.1
7 Annotated Code of Maryland
8 (2000 Replacement Volume and 2003 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Insurance
11 Section 15-1201, 15-1202, 15-1203(b), and 15-1207
12 Annotated Code of Maryland
13 (2002 Replacement Volume and 2003 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Tax - General
16 Section 2-1603 and 12-105(a)
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Health - General
21 Section 8-101(a) and (b)
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2003 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Health - General
26 Section 8-402, 8-403, 10-104, and 10-901
27 Annotated Code of Maryland
28 (2000 Replacement Volume and 2003 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - Health - General
31 Section 15-103(a)
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2003 Supplement)
34 (As enacted by Section 1 of this Act)

35 BY repealing and reenacting, with amendments,
36 Article - Insurance

1 Section 14-501 through 14-503 and 14-504 through 14-507 to be under the
2 amended part "Part I. MdCare"; and 14-510
3 Annotated Code of Maryland
4 (2002 Replacement Volume and 2003 Supplement)

5 BY adding to
6 Article - Insurance
7 Section 14-503.1, 14-508, and 14-509
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2003 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 15-103(a)
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2003 Supplement)
15 (As enacted by Sections 1 and 6 of this Act)

16 BY adding to
17 Article - Insurance
18 Section 15-131 and 15-132
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2003 Supplement)

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

23 **Article - Health - General**

24 15-103.

25 (a) (1) The Secretary shall administer the Maryland Medical Assistance
26 Program.

27 (2) The Program:

28 (i) Subject to the limitations of the State budget, shall provide
29 comprehensive medical and other health care services for indigent individuals or
30 medically indigent individuals or both;

31 (ii) Shall provide, subject to the limitations of the State budget,
32 comprehensive medical and other health care services for all eligible pregnant women
33 whose family income is at or below 250 percent of the poverty level, as permitted by
34 the federal law;

35 (iii) Shall provide, subject to the limitations of the State budget,
36 comprehensive medical and other health care services for all eligible children

1 currently under the age of 1 whose family income falls below 185 percent of the
2 poverty level, as permitted by federal law;

3 (iv) Shall provide, subject to the limitations of the State budget,
4 family planning services to women currently eligible for comprehensive medical care
5 and other health care under item (ii) of this paragraph for 5 years after the second
6 month following the month in which the woman delivers her child;

7 (v) Shall provide, subject to the limitations of the State budget,
8 comprehensive medical and other health care services for all children from the age of
9 1 year up through and including the age of 5 years whose family income falls below
10 133 percent of the poverty level, as permitted by the federal law;

11 (vi) Shall provide, subject to the limitations of the State budget,
12 comprehensive medical care and other health care services for all children born after
13 September 30, 1983 who are at least 6 years of age but are under 19 years of age
14 whose family income falls below 100 percent of the poverty level, as permitted by
15 federal law;

16 (vii) Shall provide, subject to the limitations of the State budget,
17 comprehensive medical care and other health care services for all legal immigrants
18 who meet Program eligibility standards and who arrived in the United States before
19 August 22, 1996, the effective date of the federal Personal Responsibility and Work
20 Opportunity Reconciliation Act, as permitted by federal law;

21 (viii) Shall provide, subject to the limitations of the State budget and
22 any other requirements imposed by the State, comprehensive medical care and other
23 health care services for all legal immigrant children under the age of 18 years and
24 pregnant women who meet Program eligibility standards and who arrived in the
25 United States on or after August 22, 1996, the effective date of the federal Personal
26 Responsibility and Work Opportunity Reconciliation Act;

27 (IX) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE
28 BUDGET AND ANY OTHER REQUIREMENTS IMPOSED BY THE STATE,
29 COMPREHENSIVE MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR ALL
30 PARENTS WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 100 PERCENT OF
31 THE FEDERAL POVERTY LEVEL;

32 [(ix)] (X) May include bedside nursing care for eligible Program
33 recipients; and

34 [(x)] (XI) Shall provide services in accordance with funding
35 restrictions included in the annual State budget bill.

36 (3) Subject to restrictions in federal law or waivers, the Department may
37 impose cost-sharing on Program recipients.

38 (4) IN ADMINISTERING THE PROGRAM, THE DEPARTMENT:

1 (I) MAY NOT REQUIRE AN ASSET TEST FOR PARENTS AND
2 CHILDREN;

3 (II) SHALL ALLOW SELF-DECLARATION OF INCOME AND
4 ELIGIBILITY INFORMATION REQUIRED FOR THE APPLICATION PROCESS, EXCEPT
5 WHERE THE STATE HAS REASON TO QUESTION THE INFORMATION PROVIDED;

6 (III) SHALL ESTABLISH RENEWAL PROCEDURES THAT ALLOW
7 ENROLLEES TO VERIFY INFORMATION BY MAIL; AND

8 (IV) SHALL GUARANTEE AN ENROLLMENT PERIOD FOR 12 MONTHS,
9 EXCEPT IN CASES OF FRAUD OR MISREPRESENTATION IN THE APPLICATION.

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

12 **Article - Health - General**

13 15-124.1.

14 (a) (1) In this section the following words have the meanings indicated.

15 (2) "Enrollee" means an individual who is enrolled in the Maryland
16 Pharmacy Discount Program.

17 (3) "Program" means the Maryland Pharmacy Discount Program
18 established under this section.

19 (b) There is a Maryland Pharmacy Discount Program within the Maryland
20 Medical Assistance Program.

21 (c) The purpose of the Program is to improve the health status of [Medicare
22 beneficiaries] INDIVIDUALS who lack prescription drug coverage by providing access
23 to lower cost, medically necessary, prescription drugs.

24 (d) The Program shall be administered and operated by the Department as
25 permitted by federal law or waiver.

26 (e) (1) The Program shall be open to [Medicare beneficiaries] INDIVIDUALS
27 who lack other public or private prescription drug coverage.

28 (2) Notwithstanding paragraph (1) of this subsection, enrollment in the
29 Maryland Medbank Program established under § 15-124.2 of this subtitle or the
30 Maryland Pharmacy Assistance Program established under § 15-124 of this subtitle
31 does not disqualify an individual from being eligible for the Program.

32 (f) (1) Subject to subsection (g) of this section, an enrollee may purchase
33 medically necessary prescription drugs that are covered under the Maryland Medical
34 Assistance Program from any pharmacy that participates in the Maryland Medical
35 Assistance Program at a price that is based on the price paid by the Maryland

1 Medical Assistance Program, minus the aggregate value of any federally mandated
2 manufacturers' rebates.

3 (2) Subject to subsection (g) of this section, and to the extent authorized
4 under federal waiver, an enrollee whose annual household income is at or below 175
5 percent of the federal poverty guidelines may receive a discount subsidized by the
6 Department that is equal to 35 percent of the price paid by the Maryland Medical
7 Assistance Program for each medically necessary prescription drug purchased under
8 the Program.

9 (g) The Department may establish mechanisms to:

10 (1) Recover the administrative costs of the Program;

11 (2) Reimburse participating pharmacies in an amount equal to the
12 Maryland Medical Assistance price, minus the copayment paid by the enrollee for
13 each prescription filled under the Program; and

14 (3) Allow participating pharmacies to collect a \$1 processing fee, in
15 addition to any authorized dispensing fee, for each prescription filled for an enrollee
16 under the Program.

17 (h) The Secretary shall adopt regulations to implement the Program.

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

20 **Article - Health - General**

21 15-301.

22 (a) There is a Maryland Children's Health Program.

23 (b) The Maryland Children's Health Program shall provide, subject to the
24 limitations of the State budget and any other requirements imposed by the State and
25 as permitted by federal law or waiver, comprehensive medical care and other health
26 care services to an individual [who has a family income at or below 300 percent of the
27 federal poverty guidelines and] who is under the age of 19 years.

28 (c) The Maryland Children's Health Program shall be administered:

29 (1) [Except as provided in item (3) of this subsection, for] FOR
30 individuals whose family income is at or below 200 percent of the federal poverty
31 guidelines, through the Program under Subtitle 1 of this title requiring individuals to
32 enroll in managed care organizations; OR

33 (2) For eligible individuals whose family income is above 200 [percent,
34 but at or below 300] percent of the federal poverty guidelines, through the MCHP
35 premium plan under § 15-301.1 of this subtitle[]; or

1 (3) In fiscal year 2004 only, for eligible individuals whose family income
2 is above 185 percent, but at or below 300 percent of the federal poverty guidelines,
3 through the MCHP premium plan under § 15-301.1 of this subtitle].

4 (d) (1) The Department shall provide eligible individuals and health care
5 providers with an accurate directory or other listing of all available providers:

6 (i) In written form, made available upon request; and

7 (ii) On an Internet database.

8 (2) The Department shall update the Internet database at least every 30
9 days.

10 (3) The written directory shall include a conspicuous reference to the
11 Internet database.

12 15-301.1.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) "CARRIER" MEANS:

15 (I) AN INSURER;

16 (II) A NONPROFIT SERVICE PLAN;

17 (III) A HEALTH MAINTENANCE ORGANIZATION; OR

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

20 [(2)] (3) "Eligible individual" means an individual who qualifies to
21 participate in the Maryland Children's Health Program [under § 15-301(b)]
22 SUBJECT TO § 15-301(C) of this subtitle AND WHOSE FAMILY INCOME IS ABOVE 200
23 PERCENT OF THE FEDERAL POVERTY GUIDELINES.

24 [(3)] (4) "Family contribution" means the portion of the premium cost
25 paid for an eligible individual to enroll and participate in the Maryland Children's
26 Health Program.

27 [(4)] (5) "MCHP premium plan" means the plan established under this
28 section to provide access to health insurance coverage to eligible individuals through
29 managed care organizations under the Maryland Children's Health Program.

30 (b) [Except as provided in subsection (c) of this section, this] THIS section
31 applies only to individuals whose family income is above 200 [percent, but at or below
32 300] percent of the federal poverty guidelines.

1 (C) (1) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE MCHP PREMIUM PLAN IF
2 A PARENT OR GUARDIAN IS INSURED THROUGH AN EMPLOYER'S HEALTH BENEFIT
3 PLAN THAT MEETS THE FOLLOWING CONDITIONS:

4 (I) THE EMPLOYER OFFERS FAMILY HEALTH INSURANCE
5 COVERAGE TO THE PARENT OR GUARDIAN OF AN ELIGIBLE INDIVIDUAL;

6 (II) THE PARENT OR GUARDIAN OF AN ELIGIBLE INDIVIDUAL IS
7 INSURED UNDER THE EMPLOYER-SPONSORED HEALTH BENEFIT PLAN;

8 (III) THE EMPLOYER CONTRIBUTES TO FAMILY HEALTH INSURANCE
9 COVERAGE AT A RATE NO LESS THAN 30 PERCENT OF ANNUAL PREMIUMS;

10 (IV) THE PLAN INCLUDES A BENEFIT PACKAGE THAT IS
11 DETERMINED BY THE DEPARTMENT TO BE AT LEAST EQUIVALENT TO THE
12 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN ESTABLISHED UNDER § 15-1207
13 OF THE INSURANCE ARTICLE; AND

14 (V) THE PREMIUM REQUIRED BY THE PLAN IS MORE THAN 6
15 PERCENT OF FAMILY INCOME.

16 (2) IF AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN THAT MEETS
17 THE CRITERIA UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT AVAILABLE TO
18 THE ELIGIBLE INDIVIDUAL, THE ELIGIBLE INDIVIDUAL SHALL BE INSURED
19 THROUGH A MANAGED CARE ORGANIZATION AS DEFINED IN § 15-101(F) OF THIS
20 TITLE.

21 [(c)] (D) (1) As a requirement of enrollment and participation in the MCHP
22 premium plan, THROUGH A MANAGED CARE ORGANIZATION, the parent or guardian
23 of an eligible individual WHOSE FAMILY INCOME IS ABOVE 200 PERCENT BUT AT OR
24 BELOW 400 PERCENT shall agree to pay the following annual family contribution:

25 [(i)] In fiscal year 2004 only, for an eligible individual whose family
26 income is above 185 percent, but at or below 200 percent of the federal poverty
27 guidelines, an amount equal to 2 percent of the annual income of a family of two at
28 185 percent of the federal poverty guidelines;

29 [(ii)] (I) For an eligible individual whose family income is above
30 200 percent, but at or below 250 percent of the federal poverty guidelines, an amount
31 equal to 2 percent of the annual income of a family of two at 200 percent of the federal
32 poverty guidelines; and

33 [(iii)] (II) For an eligible individual whose family income is above
34 250 percent, but at or below [300] 400 percent of the federal poverty guidelines, an
35 amount equal to 2 percent of the annual income of a family of two at 250 percent of
36 the federal poverty guidelines.

37 (2) AS A REQUIREMENT OF ENROLLMENT AND PARTICIPATION IN THE
38 MCHP PREMIUM PLAN, THROUGH A MANAGED CARE ORGANIZATION, THE PARENT OR
39 GUARDIAN OF AN ELIGIBLE INDIVIDUAL WHOSE FAMILY INCOME IS ABOVE 400

1 PERCENT OF THE FEDERAL POVERTY GUIDELINES SHALL AGREE TO PAY AN
2 ACTUARIALLY FAIR PREMIUM DETERMINED BY THE SECRETARY.

3 [2] (3) The family contribution amounts required under [paragraph
4 (1)] PARAGRAPHS (1) AND (2) of this subsection apply on a per family basis regardless
5 of the number of eligible individuals each family has enrolled in the MCHP premium
6 plan.

7 [(d)] (E) The Department shall adopt regulations necessary to implement this
8 section.

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

11 **Article - Insurance**

12 15-1201.

13 (a) In this subtitle the following words have the meanings indicated.

14 (b) "Board" means the Board of Directors of the Pool established under §
15 15-1216 of this subtitle.

16 (c) "Carrier" means a person that:

17 (1) offers health benefit plans in the State covering:

18 (I) eligible employees of small employers; [and]

19 (II) AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; AND

20 (III) AN INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS ABOVE
21 350% OF THE FEDERAL POVERTY LEVEL AND WHO DOES NOT ACCEPT
22 EMPLOYER-SPONSORED INSURANCE; AND

23 (2) is:

24 (i) an authorized insurer that provides health insurance in the
25 State;

26 (ii) a nonprofit health service plan that is licensed to operate in the
27 State;

28 (iii) a health maintenance organization that is licensed to operate in
29 the State; or

30 (iv) any other person or organization that provides health benefit
31 plans subject to State insurance regulation.

32 (d) "Commission" means the Maryland Health Care Commission established
33 under Title 19, Subtitle 1 of the Health - General Article.

- 1 (e) (1) "Eligible employee" means:
- 2 (i) an individual who:
- 3 1. is an employee, sole proprietor, self-employed individual,
4 partner of a partnership, or independent contractor who is included as an employee
5 under a health benefit plan; and
- 6 2. works on a full-time basis and has a normal workweek of
7 at least 30 hours; or
- 8 (ii) a sole employee of a nonprofit organization that has been
9 determined by the Internal Revenue Service to be exempt from taxation under §
10 501(c)(3), (4), or (6) of the Internal Revenue Code who:
- 11 1. has a normal workweek of at least 20 hours; and
- 12 2. is not covered under a public or private plan for health
13 insurance or other health benefit arrangement.
- 14 (2) "Eligible employee" does not include an individual who works:
- 15 (i) on a temporary or substitute basis; or
- 16 (ii) except for an individual described in paragraph (1)(ii) of this
17 subsection, for less than 30 hours in a normal workweek.
- 18 (f) (1) "Health benefit plan" means:
- 19 (i) a policy or certificate for hospital or medical benefits;
- 20 (ii) a nonprofit health service plan; or
- 21 (iii) a health maintenance organization subscriber or group master
22 contract.
- 23 (2) "Health benefit plan" includes a policy or certificate for hospital or
24 medical benefits that covers residents of this State who are eligible employees and
25 that is issued through:
- 26 (i) a multiple employer trust or association located in this State or
27 another state; or
- 28 (ii) a professional employer organization, coemployer, or other
29 organization located in this State or another state that engages in employee leasing.
- 30 (3) "Health benefit plan" does not include:
- 31 (i) accident-only insurance;
- 32 (ii) fixed indemnity insurance;

- 1 (iii) credit health insurance;
- 2 (iv) Medicare supplement policies;
- 3 (v) Civilian Health and Medical Program of the Uniformed Services
4 (CHAMPUS) supplement policies;
- 5 (vi) long-term care insurance;
- 6 (vii) disability income insurance;
- 7 (viii) coverage issued as a supplement to liability insurance;
- 8 (ix) workers' compensation or similar insurance;
- 9 (x) disease-specific insurance;
- 10 (xi) automobile medical payment insurance;
- 11 (xii) dental insurance; or
- 12 (xiii) vision insurance.

13 (g) "Health status-related factor" means a factor related to:

- 14 (1) health status;
- 15 (2) medical condition;
- 16 (3) claims experience;
- 17 (4) receipt of health care;
- 18 (5) medical history;
- 19 (6) genetic information;
- 20 (7) evidence of insurability including conditions arising out of acts of
21 domestic violence; or
- 22 (8) disability.

23 (h) "Late enrollee" means:

- 24 (1) an eligible employee or dependent who requests enrollment in a
25 health benefit plan after the initial enrollment period provided under the health
26 benefit plan; or
- 27 (2) a self-employed individual described in § 15-1203(c) or (d) of this
28 subtitle or dependent who requests enrollment in a health benefit plan after an
29 annual open enrollment period for self-employed individuals established by the
30 carrier in accordance with regulations adopted by the Commissioner.

1 (i) "Pool" means the Maryland Small Employer Health Reinsurance Pool
2 established under this subtitle.

3 (j) "Preexisting condition" means:

4 (1) a condition existing during a specified period immediately preceding
5 the effective date of coverage, that would have caused an ordinarily prudent person to
6 seek medical advice, diagnosis, care, or treatment; or

7 (2) a condition for which medical advice, diagnosis, care, or treatment
8 was recommended or received during a specified period immediately preceding the
9 effective date of coverage.

10 (k) "Preexisting condition provision" means a provision in a health benefit
11 plan that denies, excludes, or limits benefits for an enrollee for expenses or services
12 related to a preexisting condition.

13 (l) "Reinsuring carrier" means a carrier that participates in the Pool.

14 (m) "Risk-assuming carrier" means a carrier that does not participate in the
15 Pool.

16 (n) "Small employer" means:

17 (1) an employer described in § 15-1203 of this subtitle; or

18 (2) an entity that leases employees from a professional employer
19 organization, coemployer, or other organization engaged in employee leasing and that
20 otherwise meets the description of § 15-1203 of this subtitle.

21 (o) "Special enrollment period" means a period during which a group health
22 plan shall permit certain individuals who are eligible for coverage, but not enrolled, to
23 enroll for coverage under the terms of the group health benefit plan.

24 (p) "Standard Plan" means the Comprehensive Standard Health Benefit Plan
25 adopted by the Commission in accordance with § 15-1207 of this subtitle and Title 19,
26 Subtitle 1 of the Health - General Article.

27 15-1202.

28 (a) This subtitle applies only to a health benefit plan that:

29 (1) covers:

30 (I) eligible employees of small employers in the State; [and]

31 (II) AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; AND

32 (III) AN INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS ABOVE
33 350% OF THE FEDERAL POVERTY LEVEL AND WHO DOES NOT ACCEPT
34 EMPLOYER-SPONSORED INSURANCE; AND

1 (2) is issued or renewed on or after July 1, 1994, if:

2 (i) any part of the premium or benefits is paid by or on behalf of
3 the small employer;

4 (ii) any eligible employee or dependent is reimbursed, through
5 wage adjustments or otherwise, by or on behalf of the small employer for any part of
6 the premium;

7 (iii) the health benefit plan is treated by the employer or any
8 eligible employee or dependent as part of a plan or program under the United States
9 Internal Revenue Code, 26 U.S.C. § 106, § 125, or § 162; [or]

10 (iv) the small employer allows eligible employees to pay for the
11 health benefit plan through payroll deductions; OR

12 (V) THE HEALTH BENEFIT PLAN COVERS:

13 1. AN INDIVIDUAL UNDER AN INDIVIDUAL POLICY; OR

14 2. AN INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS
15 ABOVE 350% OF THE FEDERAL POVERTY LEVEL AND WHO DOES NOT ACCEPT
16 EMPLOYER-SPONSORED INSURANCE.

17 (b) A carrier is subject to the requirements of § 15-1403 of this title in
18 connection with health benefit plans issued under this subtitle.

19 15-1203.

20 (b) (1) A person is considered a small employer under this subtitle if the
21 person:

22 (i) is an employer that on at least 50% of its working days during
23 the preceding calendar quarter, employed at least two but not more than [50] 100
24 eligible employees, the majority of whom are employed in the State; and

25 (ii) is a person actively engaged in business or is the governing body
26 of:

27 1. a charter home-rule county established under Article
28 XI-A of the Maryland Constitution;

29 2. a code home-rule county established under Article XI-F of
30 the Maryland Constitution;

31 3. a commission county established or operating under
32 Article 25 of the Code; or

33 4. a municipal corporation established or operating under
34 Article XI-E of the Maryland Constitution.

1 (2) Notwithstanding paragraph (1)(i) of this subsection:

2 (i) a person is considered a small employer under this subtitle if
3 the employer did not exist during the preceding calendar year but on at least 50% of
4 the working days during its first year the employer employs at least two but not more
5 than [50] 100 eligible employees and otherwise satisfies the conditions of paragraph
6 (1)(i) of this subsection; and

7 (ii) if the federal Employee Retirement Income Security Act
8 (ERISA) is amended to exclude employee groups under a specific size, this subtitle
9 shall apply to any employee group size that is excluded from that Act.

10 (3) In determining the group size specified under paragraph (1)(i) of this
11 subsection:

12 (i) companies that are affiliated companies or that are eligible to
13 file a consolidated federal income tax return shall be considered one employer; and

14 (ii) an employee may not be counted who is a part-time employee
15 as described in § 15-1210(a)(2) of this subtitle.

16 (4) A carrier may request documentation to verify that a person meets
17 the criteria under this subsection to be considered a small employer under this
18 subtitle.

19 (5) Notwithstanding paragraph (1)(i) of this subsection, a person is
20 considered to continue to be a small employer under this subtitle if the person met the
21 conditions of paragraph (1)(i) of this subsection and purchased a health benefit plan
22 in accordance with this subtitle, and subsequently eliminated all but one employee.

23 15-1207.

24 (a) In accordance with Title 19, Subtitle 1 of the Health - General Article, the
25 Commission shall adopt regulations that specify:

26 (1) the Comprehensive Standard Health Benefit Plan to apply under this
27 subtitle; and

28 (2) a modified health benefit plan for medical savings accounts that
29 qualify under the federal Health Insurance Portability and Accountability Act of 1996,
30 including:

31 (i) a waiver of deductibles as permitted under federal law;

32 (ii) minimum funding standards for medical savings accounts; and

33 (iii) authorization for offering the modified plan only by those
34 persons who offer the Comprehensive Standard Health Benefit Plan adopted in
35 accordance with item (1) of this subsection.

1 (b) The Commission shall require that the minimum benefits allowed to be
2 offered in the Standard Plan:

3 (1) by a health maintenance organization, shall include at least the
4 actuarial equivalent of the minimum benefits required to be offered by a federally
5 qualified health maintenance organization; [and]

6 (2) by an insurer or nonprofit health service plan on an
7 expense-incurred basis, shall be actuarially equivalent to at least the minimum
8 benefits required to be offered under item (1) of this subsection; AND

9 (3) SHALL INCLUDE ALL OF THE BENEFITS THAT EXISTED IN THE PLAN
10 AS OF JUNE 1, 2003.

11 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
12 exclude or limit ADDITIONAL benefits or adjust cost-sharing arrangements in the
13 Standard Plan if the average rate for the Standard Plan exceeds [10%] 12% of the
14 average annual wage in the State.

15 (2) The Commission annually shall determine the average rate for the
16 Standard Plan by using the average rate submitted by each carrier that offers the
17 Standard Plan.

18 (d) In establishing benefits, the Commission shall judge preventive services,
19 medical treatments, procedures, and related health services based on:

20 (1) their effectiveness in improving the health status of individuals;

21 (2) their impact on maintaining and improving health and on reducing
22 the unnecessary consumption of health care services; and

23 (3) their impact on the affordability of health care coverage.

24 (e) The Commission may exclude:

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

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

32 (f) The Standard Plan shall include uniform deductibles and cost-sharing
33 associated with its benefits, as determined by the Commission.

34 (g) In establishing cost-sharing as part of the Standard Plan, the Commission
35 shall:

- 1 (1) include cost-sharing and other incentives to help prevent consumers
2 from seeking unnecessary services;
- 3 (2) balance the effect of cost-sharing in reducing premiums and in
4 affecting utilization of appropriate services; and
- 5 (3) limit the total cost-sharing that may be incurred by an individual in
6 a year.

7 **Article - Tax - General**

8 12-105.

9 (a) The tobacco tax rate for cigarettes is:

- 10 (1) [50] 75 cents for each package of 10 or fewer cigarettes;
- 11 (2) [\$1.00] \$1.50 for each package of at least 11 and not more than 20
12 cigarettes;
- 13 (3) [5.0] 7.5 cents for each cigarette in a package of more than 20
14 cigarettes; and
- 15 (4) [5.0] 7.5 cents for each cigarette in a package of free sample
16 cigarettes.

17 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Health - General**

20 8-101.

21 (a) In this title the following words have the meanings indicated.

22 (b) "Administration" means the Alcohol and Drug Abuse Administration.

23 8-402.

24 (a) The Administration shall:

- 25 (1) Plan and encourage development of, and coordinate the facilities and
26 services that offer treatment, care, or rehabilitation for alcohol and drug abusers; and
- 27 (2) Adopt regulations:
- 28 (i) To set standards for treatment, care, and rehabilitation of
29 alcohol and drug abusers; and
- 30 (ii) To ensure that before a facility is certified under this title to
31 provide treatment, care, or rehabilitation of alcohol or drug abusers, an opportunity to

1 comment, concerning whether the facility meets certification requirements, is
2 provided to representatives of the county government and, if in a municipal
3 corporation, the municipal government and to private citizens in the community
4 where the facility is proposed to be located.

5 [(b) The Administration may establish and operate or identify facilities and
6 services, including evaluation facilities to determine if an individual is a drug abuser
7 or alcohol abuser or dependent on drugs or alcohol.

8 (c) A facility that the Administration operates or contracts to be operated is a
9 health facility and is not, for any purpose, a correctional institution.

10 (d) An individual may not be discriminated against based on an inability to
11 pay for any services provided by the Administration either directly or by contract.

12 (e) To carry out the purposes of this title, the Administration may contract
13 with any appropriate public or private agency that has proper and adequate
14 treatment facilities, services, and staff.

15 (f)] (B) (1) The Administration shall evaluate the success and effectiveness
16 of each alcohol abuse and drug abuse treatment program licensed or certified under
17 this subtitle by performing outcome research studies on a representative sample of
18 individuals who have received treatment under those programs to determine the
19 extent to which the individuals:

20 (i) Have been successfully discharged from the treatment program;
21 and

22 (ii) Have successfully controlled their alcohol and drug abuse
23 problems after being discharged from the program.

24 (2) The Administration shall adopt any reasonable regulations necessary
25 to permit the Administration to perform the outcome research studies required under
26 paragraph (1) of this subsection.

27 (3) The outcome research studies shall be conducted in a manner to
28 protect the confidentiality of the individual and in accordance with the provisions of
29 Subtitle 6 of this title.

30 (4) The Administration shall establish an Alcohol and Drug Abuse
31 Treatment Research Advisory Committee to:

32 (i) Develop the methodology necessary to conduct the outcome
33 research studies; and

34 (ii) Advise the Administration on any reasonable regulations
35 necessary to perform the outcome research studies in accordance with this subsection.

1 8-403.

2 (a) In this section, "alcohol abuse and drug abuse treatment [program":

3 (1) Means] PROGRAM" MEANS any individual or organization that
4 provides treatment, care, or rehabilitation for individuals who show the effects of
5 drug abuse or alcohol abuse, and represents or advertises itself as an alcohol abuse or
6 drug abuse treatment [program; and

7 (2) Includes a program or facility that is owned or operated by this State
8 or any of its political subdivisions] PROGRAM.

9 (b) Except as otherwise provided in this section, an alcohol abuse and drug
10 abuse treatment program shall be certified by the Department before program
11 services may be provided in this State.

12 (c) This section does not apply to:

13 (1) A health professional licensed under the Health Occupations Article
14 who is treating patients within the scope of the professional's practice and who does
15 not advertise the practice as an alcohol abuse or drug abuse program;

16 (2) Alcoholics Anonymous, Narcotics Anonymous, transitional housing
17 programs, or other similar organizations, if the organization holds meetings or
18 provides support services to help individuals who show the effects of drug abuse or
19 alcohol abuse; or

20 (3) An employees' assistance program of a business entity.

21 (d) Unless requested, the certification requirements of this section do not
22 apply to a hospital as defined in § 19-301 of this article accredited by the Joint
23 Commission on Accreditation of Hospitals with a separately accredited alcohol and
24 drug abuse program.

25 (e) An intermediate care facility, alcoholic (type C or D), shall be certified as
26 an intermediate care alcohol abuse and drug abuse treatment facility.

27 10-104.

28 (A) Notwithstanding any other provision of law, this title applies to a person
29 who is licensed under Title 19 of this article if the person provides care or treatment
30 to individuals who have mental disorders.

31 (B) THE DEPARTMENT SHALL PROVIDE SERVICES UNDER THIS TITLE TO AN
32 INDIVIDUAL WHO:

33 (1) IS UNINSURED;

34 (2) IS ENROLLED IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

35 OR

1 (3) HAS HEALTH COVERAGE IN A PUBLIC OR PRIVATE PROGRAM, IF THE
2 INDIVIDUAL IS CHARGED AT FULL COST FOR SERVICES PROVIDED UNDER THIS
3 TITLE.

4 10-901.

5 (a) (1) The Secretary shall adopt rules and regulations that set standards
6 for:

7 (i) Eligibility for State funding of local mental health programs
8 under Part I of this subtitle;

9 (ii) Qualifications of staff and quality of professional services of
10 eligible programs;

11 (iii) Eligibility for AND COSTS OF receiving services under eligible
12 programs; and

13 (iv) Accreditation of a facility as defined in § 10-101(e) of this title.

14 (2) The Secretary may consider accreditation by the Joint Commission
15 on Accreditation of Healthcare Organizations (JCAHO) or the Commission on
16 Accreditation of Rehabilitation Facilities (CARF), whichever is appropriate, as
17 meeting the rules and regulations adopted under this subtitle.

18 (3) The rules and regulations shall ensure:

19 (i) That an individual is not discriminated against based on an
20 inability to pay for services; and

21 (ii) That an individual is not discriminated against or denied
22 community-based mental health services based on the individual's lack of a fixed
23 address or because the individual is homeless.

24 (b) The Secretary shall:

25 (1) Through the regional mental health director, provide a county with
26 consultative staff services to help ascertain local needs and plan and establish local
27 mental health programs;

28 (2) Review and evaluate local programs and personnel practices;

29 (3) Make recommendations to the governing body, health officer of a
30 county, and the director of the Montgomery County Department of Health and
31 Human Services on the local program and personnel practices;

32 (4) Review and either approve or disapprove the plans and budgets that
33 a county governing body submits for State funding under Part I of this subtitle; and

34 (5) Exercise any other power or duty required to carry out Part I of this
35 subtitle.

1 SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Health - General**

4 15-103.

5 (a) (1) The Secretary shall administer the Maryland Medical Assistance
6 Program.

7 (2) The Program:

8 (i) Subject to the limitations of the State budget, shall provide
9 comprehensive medical and other health care services for indigent individuals or
10 medically indigent individuals or both;

11 (ii) Shall provide, subject to the limitations of the State budget,
12 comprehensive medical and other health care services for all eligible pregnant women
13 whose family income is at or below 250 percent of the poverty level, as permitted by
14 the federal law;

15 (iii) Shall provide, subject to the limitations of the State budget,
16 comprehensive medical and other health care services for all eligible children
17 currently under the age of 1 whose family income falls below 185 percent of the
18 poverty level, as permitted by federal law;

19 (iv) Shall provide, subject to the limitations of the State budget,
20 family planning services to women currently eligible for comprehensive medical care
21 and other health care under item (ii) of this paragraph for 5 years after the second
22 month following the month in which the woman delivers her child;

23 (v) Shall provide, subject to the limitations of the State budget,
24 comprehensive medical and other health care services for all children from the age of
25 1 year up through and including the age of 5 years whose family income falls below
26 133 percent of the poverty level, as permitted by the federal law;

27 (vi) Shall provide, subject to the limitations of the State budget,
28 comprehensive medical care and other health care services for all children born after
29 September 30, 1983 who are at least 6 years of age but are under 19 years of age
30 whose family income falls below 100 percent of the poverty level, as permitted by
31 federal law;

32 (vii) Shall provide, subject to the limitations of the State budget,
33 comprehensive medical care and other health care services for all legal immigrants
34 who meet Program eligibility standards and who arrived in the United States before
35 August 22, 1996, the effective date of the federal Personal Responsibility and Work
36 Opportunity Reconciliation Act, as permitted by federal law;

37 (viii) Shall provide, subject to the limitations of the State budget and
38 any other requirements imposed by the State, comprehensive medical care and other

1 health care services for all legal immigrant children under the age of 18 years and
 2 pregnant women who meet Program eligibility standards and who arrived in the
 3 United States on or after August 22, 1996, the effective date of the federal Personal
 4 Responsibility and Work Opportunity Reconciliation Act;

5 (ix) Shall provide, subject to the limitations of the State budget and
 6 any other requirements imposed by the State, comprehensive medical care and other
 7 health care services for all parents whose annual household income is at or below
 8 [100] 150 percent of the federal poverty level;

9 (x) May include bedside nursing care for eligible Program
 10 recipients; and

11 (xi) Shall provide services in accordance with funding restrictions
 12 included in the annual State budget bill.

13 (3) Subject to restrictions in federal law or waivers, the Department may
 14 impose cost-sharing on Program recipients.

15 (4) In administering the Program, the Department:

16 (i) May not require an asset test for parents and children;

17 (ii) Shall allow self-declaration of income and eligibility
 18 information required for the application process, except where the State has reason to
 19 question the information provided;

20 (iii) Shall establish renewal procedures that allow enrollees to verify
 21 information by mail; and

22 (iv) Shall guarantee an enrollment period for 12 months, except in
 23 cases of fraud or misrepresentation in the application.

24 SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 25 read as follows:

26 **Article - Insurance**

27 **Part I. [Maryland Health Insurance Plan] MDCARE.**

28 14-501.

29 (a) In this subtitle the following words have the meanings indicated.

30 (b) "Administrator" means:

31 (1) a person that is registered as an Administrator under Title 8, Subtitle
 32 3 of this article; or

33 (2) a carrier as defined under subsection (d) of this section.

1 (c) "Board" means the Board of Directors for [the Maryland Health Insurance
2 Plan] MDCARE.

3 (d) "Carrier" means:

4 (1) an authorized insurer that provides health insurance in the State;

5 (2) a nonprofit health service plan that is licensed to operate in the
6 State; or

7 (3) a health maintenance organization that is licensed to operate in the
8 State.

9 (e) "Fund" means the [Maryland Health Insurance Plan] MDCARE Fund.

10 [(f) (1) "Medically uninsurable individual" means an individual who is a
11 resident of the State and who:

12 (i) provides evidence that, for health reasons, a carrier has refused
13 to issue substantially similar coverage to the individual;

14 (ii) provides evidence that, for health reasons, a carrier has refused
15 to issue substantially similar coverage to the individual, except at a rate that exceeds
16 the Plan rate;

17 (iii) satisfies the definition of "eligible individual" under § 15-1301
18 of this article;

19 (iv) has a history of or suffers from a medical or health condition
20 that is included on a list promulgated in regulation by the Board;

21 (v) is eligible for the tax credit for health insurance costs under § 35
22 of the Internal Revenue Code; or

23 (vi) is a dependent of an individual who is eligible for coverage
24 under this subsection.

25 (2) "Medically uninsurable individual" does not include an individual
26 who is eligible for coverage under:

27 (i) the federal Medicare program;

28 (ii) the Maryland Medical Assistance Program;

29 (iii) the Maryland Children's Health Program; or

30 (iv) an employer-sponsored group health insurance plan that
31 includes benefits comparable to Plan benefits, unless the individual is eligible for the
32 tax credit for health insurance costs under Section 35 of the Internal Revenue Code.

33 (g) "Plan" means the Maryland Health Insurance Plan.

1 (h)] (F) "Plan of operation" means the articles, bylaws, and operating rules
2 and procedures adopted by the Board in accordance with § 14-503 of this subtitle.

3 (G) (1) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL:

4 (I) WHO IS A RESIDENT OF THE STATE;

5 (II) WHOSE ANNUAL FAMILY INCOME:

6 1. IN FISCAL YEAR 2005, IS BELOW 150% OF THE FEDERAL
7 POVERTY LEVEL; OR

8 2. IN FISCAL YEAR 2006 AND EACH FISCAL YEAR
9 THEREAFTER, IS BELOW 350% OF THE FEDERAL POVERTY LEVEL; AND

10 (III) WHOSE EMPLOYER:

11 1. OFFERS HEALTH INSURANCE COVERAGE THAT:

12 A. DOES NOT OFFER BENEFITS COMPARABLE TO THE
13 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
14 ARTICLE; OR

15 B. COSTS MORE THAN 3% OF THE INCOME OF THE
16 UNINSURED INDIVIDUAL FOR INDIVIDUAL COVERAGE OR MORE THAN 6% OF THE
17 INCOME OF THE UNINSURED INDIVIDUAL FOR FAMILY COVERAGE; OR

18 2. OFFERS NO HEALTH INSURANCE COVERAGE.

19 (2) "UNINSURED INDIVIDUAL" DOES NOT INCLUDE AN INDIVIDUAL:

20 (I) WHO IS ELIGIBLE FOR COVERAGE UNDER:

21 1. THE FEDERAL MEDICARE PROGRAM;

22 2. THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

23 3. THE MARYLAND CHILDREN'S HEALTH PROGRAM; OR

24 4. AN EMPLOYER-SPONSORED GROUP HEALTH INSURANCE
25 PLAN THAT INCLUDES AT LEAST ALL OF THE BENEFITS OFFERED IN THE
26 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
27 ARTICLE AND DOES NOT COST MORE THAN 3% OF THE INCOME OF THE UNINSURED
28 INDIVIDUAL FOR INDIVIDUAL COVERAGE OR MORE THAN 6% OF THE INCOME OF THE
29 UNINSURED INDIVIDUAL FOR FAMILY COVERAGE; OR

30 (II) WHOSE EMPLOYER, IN THE LAST 6 MONTHS:

31 1. TERMINATED THE INDIVIDUAL'S COVERAGE;

1 2. DECREASED BENEFITS BELOW THE LEVEL REQUIRED IN
2 THE COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS
3 ARTICLE; OR

4 3. INCREASED THE COST OF COVERAGE TO BE MORE THAN
5 3% OF THE INCOME OF THE UNINSURED INDIVIDUAL FOR INDIVIDUAL COVERAGE OR
6 MORE THAN 6% OF THE INCOME OF THE UNINSURED INDIVIDUAL FOR FAMILY
7 COVERAGE.

8 14-502.

9 [(a) There is a Maryland Health Insurance Plan.

10 [(b)] (A) [The Plan is an independent unit that operates within the
11 Administration] MDCARE IS ESTABLISHED AS A QUASI-PUBLIC NONPROFIT
12 CORPORATION NOT TO BE CONSIDERED AN INSTRUMENTALITY OF STATE
13 GOVERNMENT, EXCEPT AS PROVIDED BY STATUTE.

14 [(c)] (B) The purpose of [the Plan is to decrease uncompensated care costs by
15 providing access to affordable, comprehensive health benefits for medically
16 uninsurable residents of the State by July 1, 2003] MDCARE IS TO PROVIDE
17 AFFORDABLE, COMPREHENSIVE HEALTH BENEFITS FOR UNINSURED INDIVIDUALS
18 WITHOUT ACCESS TO AFFORDABLE, EMPLOYER-SPONSORED HEALTH COVERAGE.

19 [(d)] (C) It is the intent of the General Assembly that [the Plan] MDCARE
20 operate as a nonprofit entity and that Fund revenue, to the extent consistent with
21 good business practices, be used to subsidize health insurance coverage for [medically
22 uninsurable individuals] UNINSURED INDIVIDUALS.

23 14-503.

24 (a) There is a Board for [the Plan] MDCARE.

25 (b) [The Plan] MDCARE shall operate subject to the supervision and control of
26 the Board.

27 (c) The Board consists of [seven] 15 members, of whom:

28 (1) one shall be the Commissioner;

29 (2) one shall be the Executive Director of the Maryland Health Care
30 Commission;

31 (3) one shall be the Executive Director of the Health Services Cost
32 Review Commission;

33 (4) one shall be the Secretary of the Department of Budget and
34 Management;

1 (5) [one] FOUR shall be appointed by the Director of the Health,
2 Education, and Advocacy Unit in the Office of the Attorney General in accordance
3 with subsection (d) of this section;

4 (6) one shall be appointed by the Commissioner to represent carriers
5 operating in the State; [and]

6 (7) one shall be appointed by the Commissioner to represent insurance
7 producers selling insurance in the State;

8 (8) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
9 THE DISABILITIES COMMUNITY;

10 (9) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
11 THE SMALL BUSINESS COMMUNITY;

12 (10) ONE SHALL BE APPOINTED BY THE COMMISSIONER TO REPRESENT
13 LABOR UNIONS; AND

14 (11) TWO SHALL BE PHYSICIANS APPOINTED BY THE COMMISSIONER TO
15 REPRESENT THE CONCERNS OF MEDICAL PROVIDERS, ONE OF WHOM SHALL
16 REPRESENT THE MONUMENTAL CITY MEDICAL SOCIETY.

17 (d) (1) THE FOUR BOARD MEMBERS APPOINTED UNDER SUBSECTION (C)(5)
18 OF THIS SECTION SHALL BE CONSUMERS OF HEALTH SERVICES, ONE EACH FROM
19 THE EASTERN SHORE, CENTRAL MARYLAND, METRO-D.C. AREA, AND WESTERN
20 MARYLAND.

21 [(1)] (2) [The Board member appointed under subsection (c)(5) of this
22 section shall be a consumer who does] THE CONSUMER MEMBERS MAY not have a
23 substantial financial interest in a person regulated under this article or under Title
24 19, Subtitle 7 of the Health - General Article.

25 [(2)] (3) The term of a consumer member and a member appointed by
26 the Commissioner is 4 years.

27 [(3)] (4) At the end of a term, a consumer member and a member
28 appointed by the Commissioner continue to serve until a successor is appointed and
29 qualifies.

30 [(4)] (5) A consumer member and a member appointed by the
31 Commissioner who are appointed after a term has begun serve only for the rest of the
32 term and until a successor is appointed and qualifies.

33 (e) Each member of the Board is entitled to reimbursement for expenses
34 under the Standard State Travel Regulations, as provided in the State budget.

35 (f) (1) The Board shall appoint an Executive Director who shall be the chief
36 [administrative] EXECUTIVE officer of [the Plan] MDCARE.

1 (2) The Executive Director shall serve at the pleasure of the Board.

2 (3) The Board shall determine the appropriate compensation for the
3 Executive Director.

4 (4) Under the direction of the Board, the Executive Director shall
5 perform any duty or function that is necessary for the operation of [the Plan]
6 MDCARE.

7 [(g) The Board is not subject to:

8 (1) the provisions of the State Finance and Procurement Article;

9 (2) the provisions of Division I of the State Personnel and Pensions
10 Article that govern the State Personnel Management System; or

11 (3) the provisions of Divisions II and III of the State Personnel and
12 Pensions Article.

13 (h) (1) The Board shall adopt a plan of operation for the Plan.

14 (2) The Board shall submit the plan of operation and any amendment to
15 the plan of operation to the Commissioner for approval.

16 (i) On an annual basis, the Board shall submit to the Commissioner an
17 audited financial report of the Fund prepared by an independent certified public
18 accountant.

19 (j) (1) The Board shall adopt regulations necessary to operate and
20 administer the Plan.

21 (2) Regulations adopted by the Board may include:

22 (i) residency requirements for Plan enrollees;

23 (ii) Plan enrollment procedures; and

24 (iii) any other Plan requirements as determined by the Board.

25 (k) In order to maximize volume discounts on the cost of prescription drugs,
26 the Board may aggregate the purchasing of prescription drugs for enrollees in the
27 Plan and enrollees in the Senior Prescription Drug Program established under Part II
28 of this subtitle.

29 (l)] (G) For those members enrolled in [the Plan] MDCARE whose eligibility
30 in [the Plan] MDCARE is subject to the requirements of the federal tax credit for
31 health insurance costs under Section 35 of the Internal Revenue Code, the Board
32 shall report on or before December 1, 2003, and annually thereafter, to the Governor,
33 and subject to § 2-1246 of the State Government Article, to the General Assembly on
34 the number of members enrolled in [the Plan] MDCARE and the costs to [the Plan]
35 MDCARE associated with providing insurance to those members.

1 14-503.1.

2 (A) MDCARE IS NOT SUBJECT TO:

3 (1) THE PROVISIONS OF THE STATE FINANCE AND PROCUREMENT
4 ARTICLE;

5 (2) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
6 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM;
7 OR

8 (3) THE PROVISIONS OF DIVISIONS II AND III OF THE STATE PERSONNEL
9 AND PENSIONS ARTICLE.

10 (B) EMPLOYEES OF MDCARE MAY ENGAGE IN COLLECTIVE BARGAINING.

11 (C) (1) MDCARE SHALL ADOPT A PLAN OF OPERATION.

12 (2) MDCARE SHALL SUBMIT THE PLAN OF OPERATION AND ANY
13 AMENDMENT TO THE PLAN OF OPERATION TO THE COMMISSIONER FOR APPROVAL.

14 (D) ON AN ANNUAL BASIS, MDCARE SHALL SUBMIT TO THE COMMISSIONER
15 AN AUDITED FINANCIAL REPORT OF THE FUND PREPARED BY AN INDEPENDENT
16 CERTIFIED PUBLIC ACCOUNTANT.

17 (E) (1) MDCARE SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT
18 THE PROVISIONS OF THIS SUBTITLE.

19 (2) REGULATIONS ADOPTED BY MDCARE MAY INCLUDE:

20 (I) RESIDENCY REQUIREMENTS FOR MDCARE ENROLLEES;

21 (II) MDCARE ENROLLMENT PROCEDURES; AND

22 (III) ANY OTHER MDCARE REQUIREMENTS AS DETERMINED BY
23 MDCARE.

24 (F) IN ORDER TO MAXIMIZE VOLUME DISCOUNTS ON THE COST OF
25 PRESCRIPTION DRUGS, THE BOARD MAY AGGREGATE THE PURCHASING OF
26 PRESCRIPTION DRUGS FOR ENROLLEES IN MDCARE, ENROLLEES IN THE SENIOR
27 PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER PART II OF THIS SUBTITLE,
28 AND ENROLLEES IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM, AS ALLOWED
29 BY FEDERAL LAW OR WAIVER.

30 14-504.

31 (a) (1) There is a [Maryland Health Insurance Plan] MDCARE Fund.

32 (2) The Fund is a special nonlapsing fund that is not subject to § 7-302 of
33 the State Finance and Procurement Article.

1 (3) The Treasurer shall separately hold and the Comptroller shall
2 account for the Fund.

3 (4) The Fund shall be invested and reinvested at the direction of the
4 Board in a manner that is consistent with the requirements of Title 5, Subtitle 6 of
5 this article.

6 (5) Any investment earnings shall be retained to the credit of the Fund.

7 (6) On an annual basis, the Fund shall be subject to an independent
8 actuarial review setting forth an opinion relating to reserves and related actuarial
9 items held in support of policies and contracts.

10 (7) The Fund shall be used only to provide funding for the purposes
11 authorized under this subtitle.

12 (b) The Fund shall consist of:

13 (1) premiums for coverage that [the Plan] MDCARE issues;

14 (2) except as provided in § 14-513(a) of this subtitle, premiums paid by
15 enrollees of the Senior Prescription Drug Program;

16 (3) money collected in accordance with § 19-219 of the Health - General
17 Article;

18 (4) money deposited by a carrier in accordance with § 14-513 of this
19 subtitle;

20 (5) income from investments that the Board makes or authorizes on
21 behalf of the Fund;

22 (6) interest on deposits or investments of money from the Fund;

23 (7) premium tax revenue collected under § 14-107 of this title; [and]

24 (8) money collected by the Board as a result of legal or other actions
25 taken by the Board on behalf of the Fund; AND

26 (9) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.

27 (c) (1) The Board may allow the Administrator to use premiums collected by
28 the Administrator from [Plan] MDCARE enrollees to pay claims for [Plan] MDCARE
29 enrollees.

30 (2) The Administrator:

31 (i) shall deposit all premiums for [Plan] MDCARE enrollees in a
32 separate account, titled in the name of the State of Maryland, for [the Maryland
33 Health Insurance Plan] MDCARE; and

1 (ii) may use money in the account only to pay claims for [Plan]
2 MDCARE enrollees.

3 (3) The Administrator shall keep complete and accurate records of all
4 transactions for the separate account.

5 (4) By the 15th of the following month, if monthly premiums collected by
6 the Administrator exceed monthly claims received, the Administrator shall deposit
7 the remaining balance, including interest, for that month in the Fund.

8 (d) The Board shall take steps necessary to ensure that [Plan] MDCARE
9 enrollment does not exceed the number of enrollees [the Plan] MDCARE has the
10 financial capacity to insure.

11 (e) (1) In addition to the operation and administration of [the Plan]
12 MDCARE, the Fund shall be used for the operation and administration of the Senior
13 Prescription Drug Program established under Part II of this subtitle.

14 (2) The Board shall maintain separate accounts within the Fund for the
15 Senior Prescription Drug Program and [the Maryland Health Insurance Plan]
16 MDCARE.

17 (3) Accounts within the Fund shall contain those moneys that are
18 intended to support the operation of the Program for which the account is designated.

19 [(f) A debt or obligation of the Plan is not a debt of the State or a pledge of
20 credit of the State.]

21 14-505.

22 (a) (1) The Board shall establish a standard benefit package to be offered by
23 [the Plan] MDCARE.

24 [(2) The Board may exclude from the benefit package:

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

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

33 (2) THE BENEFIT PACKAGE:

34 (I) MAY NOT RESTRICT THE NUMBER OF DAYS AUTHORIZED FOR
35 INPATIENT PSYCHIATRIC CARE; AND

36 (II) SHALL INCLUDE THE FOLLOWING:

1 1. BENEFITS EQUAL TO THE COMPREHENSIVE STANDARD
2 HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS ARTICLE;
3 2. DENTAL SERVICES;
4 3. HEARING AIDS;
5 4. SMOKING CESSATION PROGRAMS; AND
6 5. CORE PREVENTIVE SERVICES RECOMMENDED BY THE
7 UNITED STATES PREVENTATIVE SERVICES TASK FORCE.

8 (3) THE BOARD SHALL ENSURE THAT ENROLLEES MAY SELECT
9 FEDERALLY QUALIFIED HEALTH CENTERS AND SCHOOL-BASED HEALTH CENTERS
10 AS THEIR PRIMARY CARE PROVIDER AND THAT THE CENTERS ARE FULLY
11 INTEGRATED INTO THE MDCARE PLAN.

12 (b) (1) The Board shall establish a premium rate for Plan coverage subject to
13 review and approval by the Commissioner.

14 (2) The premium rate may vary only on the basis of family composition.

15 (3) If the Board determines that a standard risk rate would create
16 market dislocation, the Board may adjust the premium rate based on member age.

17 (c) (1) The Board shall determine a standard risk rate by considering the
18 premium rates charged by carriers in the State for coverage comparable to that of the
19 Plan.

20 (2) The premium rate for Plan coverage:

21 (i) may not be less than 110% of the standard risk rate established
22 under paragraph (1) of this subsection; and

23 (ii) may not exceed 200% of the standard risk rate.

24 (3) Premium rates shall be reasonably calculated to encourage
25 enrollment in the Plan.]

26 (B) (1) THIS SUBSECTION APPLIES ONLY TO FISCAL YEAR 2005.

27 (2) THE BOARD MAY NOT CHARGE A PREMIUM FOR AN UNINSURED
28 INDIVIDUAL.

29 (3) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
30 AT OR BELOW 100% OF THE FEDERAL POVERTY LEVEL, THE BOARD MAY NOT IMPOSE
31 ANY COST-SHARING REQUIREMENTS.

32 (4) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
33 ABOVE 100% BUT BELOW 150% OF THE FEDERAL POVERTY LEVEL, THE BOARD:

1 (I) MAY NOT REQUIRE A DEDUCTIBLE; AND

2 (II) SHALL REQUIRE:

3 1. A \$10 CO-PAY; AND

4 2. 10% COINSURANCE ON PRESCRIPTION DRUGS AND
5 SERVICES.

6 (C) (1) THIS SUBSECTION APPLIES TO FISCAL YEAR 2006 AND EACH FISCAL
7 YEAR THEREAFTER.

8 (2) (I) THE BOARD:

9 1. MAY NOT CHARGE A PREMIUM FOR AN UNINSURED
10 INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS AT OR BELOW 200% OF THE
11 FEDERAL POVERTY LEVEL; AND

12 2. SHALL ESTABLISH A SLIDING SCALE PREMIUM RATE FOR
13 AN UNINSURED INDIVIDUAL WHOSE ANNUAL FAMILY INCOME IS ABOVE 200% BUT
14 BELOW 350% OF THE FEDERAL POVERTY LEVEL.

15 (II) A SLIDING SCALE PREMIUM RATE ESTABLISHED UNDER
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL RANGE BETWEEN 1.75% AND 2.5% OF
17 AN UNINSURED INDIVIDUAL'S ANNUAL FAMILY INCOME.

18 (3) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
19 AT OR BELOW 200% OF THE FEDERAL POVERTY LEVEL, THE BOARD MAY NOT IMPOSE
20 ANY COST-SHARING REQUIREMENTS IN EXCESS OF THAT REQUIRED BY THE
21 MARYLAND MEDICAL ASSISTANCE PROGRAM.

22 (4) FOR AN UNINSURED INDIVIDUAL WITH AN ANNUAL FAMILY INCOME
23 ABOVE 200% BUT BELOW 350% OF THE FEDERAL POVERTY LEVEL, THE BOARD SHALL
24 REQUIRE:

25 (I) A \$200 DEDUCTIBLE FOR THE UNINSURED INDIVIDUAL AND
26 EACH FAMILY MEMBER OF THE UNINSURED INDIVIDUAL;

27 (II) A \$10 CO-PAY; AND

28 (III) 20% COINSURANCE ON PRESCRIPTION DRUGS AND SERVICES.

29 (d) Losses incurred by [the Plan] MDCARE shall be subsidized by the Fund.

30 14-506.

31 (a) (1) The Board shall select [an Administrator] ONE OR MORE
32 ADMINISTRATORS to administer [the Plan] MDCARE.

33 (2) [The] AN Administrator shall be selected based on criteria adopted
34 by the Board in regulation, which shall include:

1 (i) the Administrator's proven ability to provide health insurance
2 coverage to individuals;

3 (ii) the efficiency and timeliness of the Administrator's claim
4 processing procedures;

5 (iii) an estimate of total charges for administering the [Plan]
6 MDCARE;

7 (iv) the Administrator's proven ability to apply effective cost
8 containment programs and procedures; and

9 (v) the financial condition and stability of the Administrator.

10 (b) [The] AN Administrator shall serve for a period of time specified in its
11 contract with [the Plan] MDCARE subject to removal for cause and any other terms,
12 conditions, and limitations contained in the contract.

13 (c) [The] AN Administrator shall perform functions relating to [the Plan]
14 MDCARE as required by the Board, including:

15 (1) determination of eligibility;

16 (2) data collection;

17 (3) case management;

18 (4) financial tracking and reporting;

19 (5) payment of claims; and

20 (6) premium billing.

21 (d) (1) Each year, [the Plan] A MDCARE Administrator shall submit to the
22 Commissioner an accounting of medical claims incurred, administrative expenses,
23 and premiums collected.

24 (2) [Plan] MDCARE losses shall be certified by the Commissioner in
25 accordance with paragraph (3) of this subsection and returned to the Administrator
26 by the Board.

27 (3) Administrative expenses and fees shall be paid as provided in [the]
28 AN Administrator's contract with the Board.

29 (e) (1) The Board may contract with a qualified, independent third party for
30 any service necessary to carry out the powers and duties of the Board.

31 (2) Unless permission is granted specifically by the Board, a third party
32 hired by the Board may not release, publish, or otherwise use any information to
33 which the third party had access under its contract.

1 (f) [The] AN Administrator shall submit regular reports to the Board
2 regarding the operation of [the Plan] MDCARE.

3 (g) [The] AN Administrator shall submit an annual report to the Board that
4 includes:

- 5 (1) the net written and earned premiums for the year;
- 6 (2) the expense of the administration for the year; and
- 7 (3) the paid and incurred losses for the year.

8 14-507.

9 It is unlawful and a violation of this article for a carrier, insurance producer, or
10 third party administrator to refer an individual employee to [the Plan] MDCARE, or
11 arrange for an individual employee to apply to [the Plan] MDCARE, for the purpose of
12 separating that employee from the group health insurance coverage provided through
13 the employee's employer.

14 14-508.

15 (A) IN COLLABORATION WITH HOSPITALS, PHYSICIANS, AND OTHER HEALTH
16 CARE PRACTITIONERS IN THE STATE, THE BOARD SHALL ESTABLISH THE MARYLAND
17 QUALITY INSTITUTE.

18 (B) THE MARYLAND QUALITY INSTITUTE SHALL:

19 (1) FOCUS ON IMPROVING THE QUALITY OF HEALTH CARE FOR
20 RESIDENTS OF THE STATE; AND

21 (2) DEVELOP STANDARDIZED CLINICAL PRACTICE GUIDELINES TO BE
22 DISTRIBUTED TO PRIVATE AND PUBLIC HEALTH PLANS AND PROVIDER
23 ORGANIZATIONS IN THE STATE.

24 14-509.

25 (A) THERE IS A MDCARE UNIVERSAL COVERAGE OVERSIGHT COMMISSION.

26 (B) THE PURPOSE OF THE COMMISSION IS TO STUDY THE IMPLEMENTATION
27 OF UNIVERSAL HEALTH COVERAGE.

28 (C) THE COMMISSION CONSISTS OF:

- 29 (1) THE COMMISSIONER;
- 30 (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
- 31 (3) THE CHAIRMAN OF THE MARYLAND HEALTH CARE COMMISSION;
- 32 AND

1 (4) THE FOLLOWING FOUR MEMBERS APPOINTED JOINTLY BY THE
2 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE:

3 (I) A HEALTH ECONOMIST;

4 (II) A HEALTH CARE PRACTITIONER IN THE STATE;

5 (III) A BUSINESS REPRESENTATIVE; AND

6 (IV) A CONSUMER REPRESENTATIVE NOMINATED BY THE
7 MARYLAND CITIZEN'S HEALTH INITIATIVE.

8 (D) THE COMMISSION SHALL ELECT A CHAIRMAN FROM AMONG ITS
9 MEMBERS.

10 (E) THE MARYLAND HEALTH CARE COMMISSION SHALL STAFF THE
11 COMMISSION.

12 (F) THE COMMISSION SHALL STUDY:

13 (1) THE STATE'S PROGRESS TOWARD ACHIEVING UNIVERSAL HEALTH
14 COVERAGE;

15 (2) APPROPRIATE MEANS OF CLOSING ANY GAPS IN UNIVERSAL HEALTH
16 COVERAGE;

17 (3) THE IMPACT OF THE EMPLOYER COVERAGE REQUIREMENT ON
18 EMPLOYMENT LEVELS IN THE STATE; AND

19 (4) THE APPROPRIATENESS OF THE MDCARE BENEFIT PACKAGE,
20 INCLUDING WAYS TO FINANCE ANY RECOMMENDED CHANGES TO THE BENEFIT
21 PACKAGE.

22 (G) ON OR BEFORE SEPTEMBER 1, 2008, AND ON OR BEFORE EACH SEPTEMBER
23 1 THEREAFTER, THE COMMISSION SHALL REPORT ITS FINDINGS AND
24 RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
25 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

26 14-510.

27 (a) In Part II of this subtitle the following words have the meanings indicated.

28 (b) "Eligible individual" means an individual who:

29 (1) is a resident of Maryland;

30 (2) is a Medicare beneficiary;

31 (3) is not enrolled in a Medicare Plus Choice managed care program or
32 other insurance program that provides prescription drug benefits at the time that the
33 individual applies for enrollment in [the Plan] MDCARE;

1 (4) has an annual household income at or below 300% of the federal
2 poverty guidelines; and

3 (5) pays the premium and copayments for [the Plan] MDCARE.

4 (c) "Enrollee" means an individual enrolled in [the Plan] MDCARE.

5 (d) "Program" means the Senior Prescription Drug Program established under
6 Part II of this subtitle.

7 SECTION 8. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article - Health - General**

10 15-103.

11 (a) (1) The Secretary shall administer the Maryland Medical Assistance
12 Program.

13 (2) The Program:

14 (i) Subject to the limitations of the State budget, shall provide
15 comprehensive medical and other health care services for indigent individuals or
16 medically indigent individuals or both;

17 (ii) Shall provide, subject to the limitations of the State budget,
18 comprehensive medical and other health care services for all eligible pregnant women
19 whose family income is at or below 250 percent of the poverty level, as permitted by
20 the federal law;

21 (iii) Shall provide, subject to the limitations of the State budget,
22 comprehensive medical and other health care services for all eligible children
23 currently under the age of 1 whose family income falls below 185 percent of the
24 poverty level, as permitted by federal law;

25 (iv) Shall provide, subject to the limitations of the State budget,
26 family planning services to women currently eligible for comprehensive medical care
27 and other health care under item (ii) of this paragraph for 5 years after the second
28 month following the month in which the woman delivers her child;

29 (v) Shall provide, subject to the limitations of the State budget,
30 comprehensive medical and other health care services for all children from the age of
31 1 year up through and including the age of 5 years whose family income falls below
32 133 percent of the poverty level, as permitted by the federal law;

33 (vi) Shall provide, subject to the limitations of the State budget,
34 comprehensive medical care and other health care services for all children born after
35 September 30, 1983 who are at least 6 years of age but are under 19 years of age

1 whose family income falls below 100 percent of the poverty level, as permitted by
2 federal law;

3 (vii) Shall provide, subject to the limitations of the State budget,
4 comprehensive medical care and other health care services for all legal immigrants
5 who meet Program eligibility standards and who arrived in the United States before
6 August 22, 1996, the effective date of the federal Personal Responsibility and Work
7 Opportunity Reconciliation Act, as permitted by federal law;

8 (viii) Shall provide, subject to the limitations of the State budget and
9 any other requirements imposed by the State, comprehensive medical care and other
10 health care services for all legal immigrant children under the age of 18 years and
11 pregnant women who meet Program eligibility standards and who arrived in the
12 United States on or after August 22, 1996, the effective date of the federal Personal
13 Responsibility and Work Opportunity Reconciliation Act;

14 (ix) Shall provide, subject to the limitations of the State budget and
15 any other requirements imposed by the State, comprehensive medical care and other
16 health care services for all parents whose annual household income is at or below
17 [150] 200 percent of the federal poverty level;

18 (x) May include bedside nursing care for eligible Program
19 recipients; and

20 (xi) Shall provide services in accordance with funding restrictions
21 included in the annual State budget bill.

22 (3) Subject to restrictions in federal law or waivers, the Department may
23 impose cost-sharing on Program recipients.

24 (4) In administering the Program, the Department:

25 (i) May not require an asset test for parents and children;

26 (ii) Shall allow self-declaration of income and eligibility
27 information required for the application process, except where the State has reason to
28 question the information provided;

29 (iii) Shall establish renewal procedures that allow enrollees to verify
30 information by mail; and

31 (iv) Shall guarantee an enrollment period for 12 months, except in
32 cases of fraud or misrepresentation in the application.

33 SECTION 9. AND BE IT FURTHER ENACTED, That the Laws of Maryland
34 read as follows:

1

Article - Insurance

2 15-131.

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

5 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
6 SUBSECTION, "EMPLOYER" HAS THE MEANING STATED IN § 10-905 OF THE TAX -
7 GENERAL ARTICLE.

8 (II) "EMPLOYER" DOES NOT INCLUDE THE FEDERAL GOVERNMENT,
9 THE STATE, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF THE STATE OR OF
10 ANOTHER STATE.

11 (3) "PAYROLL TAX" MEANS THE TAX IMPOSED UNDER THIS SECTION.

12 (4) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND
13 REGULATION.

14 (5) "WAGES" HAS THE MEANING STATED IN § 10-905 OF THE TAX -
15 GENERAL ARTICLE.

16 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH
17 EMPLOYER SHALL PAY TO THE SECRETARY AN ANNUAL PAYROLL TAX:

18 (I) EQUAL TO 4.5% OF THE TOTAL WAGES PAID TO EMPLOYEES IN
19 THE STATE DURING EACH CALENDAR YEAR, IF THE EMPLOYER HAS FEWER THAN
20 10,000 EMPLOYEES IN THE STATE, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION;

21 (II) EQUAL TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN
22 THE STATE DURING EACH CALENDAR YEAR, IF THE EMPLOYER HAS 10,000 OR MORE
23 EMPLOYEES IN THE STATE AND IS A NONPROFIT ORGANIZATION; OR

24 (III) EQUAL TO 8% OF THE TOTAL WAGES PAID TO EMPLOYEES IN
25 THE STATE DURING EACH CALENDAR YEAR, IF THE EMPLOYER HAS 10,000 OR MORE
26 EMPLOYEES IN THE STATE AND IS NOT A NONPROFIT ORGANIZATION.

27 (2) THE BOARD OF MDCARE MAY INCREASE THE PAYROLL TAX
28 PERCENTAGE ANNUALLY TO ACCOUNT FOR INFLATION, NOT TO EXCEED 5.5% OF THE
29 TOTAL WAGES PAID TO EMPLOYEES IN THE STATE DURING EACH CALENDAR YEAR.

30 (C) AN EMPLOYER MAY CLAIM A CREDIT AGAINST THE PAYROLL TAX, UP TO
31 THE AMOUNT OF THE TAX IMPOSED, IN AN AMOUNT EQUAL TO THE AMOUNT OF THE
32 EMPLOYER'S EXPENDITURES DURING THE CALENDAR YEAR TO PROVIDE HEALTH
33 INSURANCE TO EMPLOYEES IN THE STATE IF THE EMPLOYER'S HEALTH INSURANCE
34 COSTS ARE DEDUCTIBLE UNDER FEDERAL TAX LAW.

35 (D) AN EMPLOYER SHALL PAY THE PAYROLL TAX TO THE SECRETARY ON A
36 PERIODIC BASIS AND SUBMIT TO THE SECRETARY PERIODIC REPORTS FOR THE

1 DETERMINATION OF THE PAYROLL TAX DUE AS PRESCRIBED BY THE SECRETARY BY
2 REGULATION.

3 (E) WHEN CALCULATING THE PAYROLL TAX PAYMENT, THE EMPLOYER MAY
4 EXEMPT:

5 (1) WAGES PAID TO ANY EMPLOYEE BEYOND THE AMOUNT
6 TAXABLE FOR FEDERAL SOCIAL SECURITY (FICA); AND

7 (2) WAGES PAID TO ANY EMPLOYEE WHO IS ENROLLED IN OR
8 ELIGIBLE FOR MEDICARE.

9 (F) THE SECRETARY SHALL:

10 (1) ADOPT REGULATIONS TO ADMINISTER AND COLLECT THE PAYROLL
11 TAX;

12 (2) PAY THE REVENUE FROM THE PAYROLL TAX INTO THE GENERAL
13 FUND OF THE STATE; AND

14 (3) CERTIFY THAT REVENUE TO THE COMPTROLLER.

15 15-132.

16 (A) IN THIS SECTION, "APPLICABLE POVERTY INCOME LEVEL" HAS THE
17 MEANING STATED IN § 10-709 OF THE TAX - GENERAL ARTICLE.

18 (B) IN ADDITION TO THE TAX IMPOSED UNDER TITLE 10 OF THE TAX -
19 GENERAL ARTICLE, UNLESS AN INDIVIDUAL DEMONSTRATES TO THE SATISFACTION
20 OF THE COMPTROLLER THAT THE INDIVIDUAL WAS COVERED BY HEALTH
21 INSURANCE OFFERING BENEFITS COMPARABLE TO THE COMPREHENSIVE
22 STANDARD HEALTH BENEFIT PLAN UNDER § 15-1207 OF THIS ARTICLE FOR THE
23 TAXABLE YEAR:

24 (1) IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL, OR
25 OF THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME
26 TAX RETURN, IS EQUAL TO OR GREATER THAN 350% OF THE APPLICABLE POVERTY
27 INCOME LEVEL, THE INDIVIDUAL SHALL PAY AS ADDITIONAL STATE INCOME TAX
28 FOR THE TAXABLE YEAR AN AMOUNT EQUAL TO THE HOSPITAL SHARE OF
29 COMPREHENSIVE STANDARD HEALTH BENEFIT PLAN FOR THE TAXABLE YEAR, AS
30 ESTABLISHED BY THE MARYLAND HEALTH CARE COMMISSION; AND

31 (2) IF THE FEDERAL ADJUSTED GROSS INCOME OF THE INDIVIDUAL, OR
32 OF THE INDIVIDUAL AND THE INDIVIDUAL'S SPOUSE IF THEY FILE A JOINT INCOME
33 TAX RETURN, IS LESS THAN 350% OF THE APPLICABLE POVERTY INCOME LEVEL AND
34 THE INDIVIDUAL IS ELIGIBLE FOR MDCARE:

35 (I) THE INDIVIDUAL SHALL BE ENROLLED IN MDCARE AND SHALL
36 PAY AS ADDITIONAL STATE INCOME TAX FOR THE TAXABLE YEAR THE APPLICABLE
37 MDCARE PREMIUM;

1 (II) THE COMPTROLLER SHALL COORDINATE WITH MDCARE AND
2 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO DETERMINE ELIGIBILITY
3 OF THE INDIVIDUAL FOR MDCARE, THE MARYLAND MEDICAL ASSISTANCE PROGRAM,
4 AND THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

5 (III) IF THE INDIVIDUAL IS ELIGIBLE FOR MDCARE, THE MARYLAND
6 MEDICAL ASSISTANCE PROGRAM, OR THE MARYLAND CHILDREN'S HEALTH
7 PROGRAM, THE INDIVIDUAL SHALL BE AUTOMATICALLY ENROLLED AND ASSESSED A
8 3-MONTH PREMIUM BY THE COMPTROLLER.

9 (C) NOTWITHSTANDING TITLE 2, SUBTITLE 6 OF THE TAX - GENERAL ARTICLE,
10 THE COMPTROLLER SHALL DISTRIBUTE THE REVENUE FROM THE ADDITIONAL
11 STATE INCOME TAX IMPOSED UNDER THIS SECTION AS FOLLOWS:

12 (1) AMOUNTS RECEIVED UNDER SUBSECTION (B)(1) OF THIS SECTION
13 FROM INDIVIDUALS HAVING FEDERAL ADJUSTED GROSS INCOME EQUAL TO OR
14 GREATER THAN 350% OF THE APPLICABLE POVERTY INCOME LEVEL SHALL BE
15 DISTRIBUTED TO A SPECIAL FUND ADMINISTERED BY THE HEALTH SERVICES COST
16 REVIEW COMMISSION, TO BE USED ONLY TO PROVIDE REIMBURSEMENT FOR
17 UNCOMPENSATED HEALTH CARE IN THE STATE AS REQUIRED UNDER § 19-214(C) OF
18 THE HEALTH - GENERAL ARTICLE; AND

19 (2) AMOUNTS RECEIVED UNDER SUBSECTION (B)(2) OF THIS SECTION
20 FROM INDIVIDUALS HAVING FEDERAL ADJUSTED GROSS INCOME LESS THAN 350%
21 OF THE APPLICABLE POVERTY INCOME LEVEL SHALL BE DISTRIBUTED TO THE
22 GENERAL FUND OF THE STATE.

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

25 **Article - Tax - General**

26 2-1603.

27 (A) IN THIS SECTION, "SPECIAL FUND" MEANS THE SPECIAL FUND
28 ESTABLISHED UNDER THIS SECTION.

29 (B) (1) A SPECIAL FUND IS ESTABLISHED TO DEDICATE CERTAIN TOBACCO
30 TAX REVENUES TO INCREASE PROVIDER REIMBURSEMENTS IN THE MARYLAND
31 MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH
32 PROGRAM AS PROVIDED IN THIS SECTION.

33 (2) THE SPECIAL FUND IS A CONTINUING NONLAPSING FUND THAT IS
34 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

35 (3) THE SPECIAL FUND CONSISTS OF THE TOBACCO TAX REVENUES
36 DISTRIBUTED TO THE FUND UNDER SUBSECTION (C) OF THIS SECTION.

37 (4) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
38 SHALL ACCOUNT FOR THE SPECIAL FUND.

1 (5) (I) THE SPECIAL FUND SHALL BE INVESTED AND REINVESTED IN
2 THE SAME MANNER AS OTHER STATE FUNDS.

3 (II) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE
4 GENERAL FUND OF THE STATE.

5 (C) After making the distribution required under §§ 2-1601 and 2-1602 of this
6 subtitle, FROM THE REMAINING TOBACCO TAX REVENUE, the Comptroller shall
7 distribute:

8 (1) \$100,000,000 TO THE SPECIAL FUND; AND

9 (2) the remaining [tobacco tax revenue] BALANCE to the General Fund
10 of the State.

11 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, MONEY IN THE
12 SPECIAL FUND SHALL BE RETAINED IN THE SPECIAL FUND AND MAY NOT BE SPENT
13 FOR ANY PURPOSE.

14 (2) MONEY IN THE SPECIAL FUND MAY BE APPROPRIATED ONLY FOR
15 THE PURPOSES OF INCREASING PARTICIPATING PROVIDER REIMBURSEMENTS IN
16 THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S
17 HEALTH PROGRAM.

18 (3) MONEY FROM THIS SPECIAL FUND MAY ONLY BE USED TO AUGMENT
19 PROVIDER REIMBURSEMENTS AND MAY NOT BE USED TO SUPPLANT PROVIDER
20 MONEY ALREADY APPROPRIATED FOR THOSE PURPOSES.

21 SECTION 11. AND BE IT FURTHER ENACTED, That the Department of
22 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
23 Medicaid Services of an amendment to the State Medicaid plan that would allow the
24 State to phase in coverage expansion under the Maryland Medical Assistance
25 Program for all parents whose annual household income is at or below 200 percent of
26 the federal poverty level as follows:

27 (1) In fiscal year 2005, extend eligibility to each parent with an annual
28 household income at or below 100 percent of the federal poverty level;

29 (2) In fiscal year 2006, extend eligibility to each parent with an annual
30 household income at or below 150 percent of the federal poverty level; and

31 (3) In fiscal year 2007, extend eligibility to each parent with an annual
32 household income at or below 200 percent of the federal poverty level.

33 SECTION 12. AND BE IT FURTHER ENACTED, That the Department of
34 Health and Mental Hygiene shall submit to the Centers for Medicare and Medicaid
35 Services a request for an amendment to the State's existing § 1115 of the federal
36 Social Security Act demonstration waiver for the implementation of the expansion of
37 the Maryland Pharmacy Discount Program by this Act under § 15-124.1 of the Health
38 - General Article.

1 SECTION 13. AND BE IT FURTHER ENACTED, That the Department of
2 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
3 Medicaid Services of a waiver under § 1115 of the federal Social Security Act that
4 would allow the State to use Title XXI (S-CHIP) funds to implement the expansion of
5 MCHP under §§ 15-301 and 15-301.1 of the Health - General Article as enacted by
6 this Act.

7 SECTION 14. AND BE IT FURTHER ENACTED, That the Department of
8 Health and Mental Hygiene shall seek approval from the Centers for Medicare and
9 Medicaid Services of a waiver under § 1115 of the federal Social Security Act that
10 would allow the State to cover newly eligible Maryland Medical Assistance Program
11 parents under § 14-501 of the Insurance Article as enacted by this Act.

12 SECTION 15. AND BE IT FURTHER ENACTED, That all cigarettes used,
13 possessed, or held in the State on or after July 1, 2004, by any person for sale or use
14 in the State, shall be subject to the full tobacco tax of \$1.50 on cigarettes imposed by
15 this Act. This requirement includes: (1) cigarettes in vending machines or other
16 mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in
17 packages that already bear stamps issued by the Comptroller under the State Tobacco
18 Tax Act but for an amount less than the full tax imposed of 68 cents for each 10
19 cigarettes or fractional part thereof; all cigarettes held for sale by any person in the
20 State on or after July 1, 2004, that bear a stamp issued by the Comptroller of a value
21 less than \$1.50 for each pack of 20 cigarettes must be stamped with the additional
22 stamps necessary to make the aggregate tax value equal to \$1.50. In lieu of the
23 additional stamps necessary to make the aggregate tax value equal to \$1.50, the
24 Comptroller may provide an alternate method of collecting the additional tax. The
25 revenue attributable to this requirement shall be remitted to the Comptroller by
26 September 30, 2004. Except as provided above, on and after July 1, 2004, no
27 Maryland stamp shall be used except the stamp issued by the Comptroller to evidence
28 the tobacco tax on cigarettes of \$1.50 imposed by this Act.

29 SECTION 16. AND BE IT FURTHER ENACTED, That:

30 (a) The Board of MdCare shall develop a state-of-the-art Internet based
31 "electronic-Care Management" (e-CM) system.

32 (b) The e-CM system's functions shall include verification of eligibility,
33 referral management, automatic claims submission and direct deposit to provider
34 accounts, and other functions related to the coordination of patient care.

35 (c) On a phased-in basis, all primary care providers with a significant
36 MdCare caseload will participate in the e-CM system.

37 (d) The Board shall use state-of-the-art approaches to data security and
38 privacy in the e-CM system.

39 SECTION 17. AND BE IT FURTHER ENACTED, That the Insurance
40 Commission shall report to the House Health and Government Operations Committee
41 and the Senate Finance Committee on or before December 31 of each year on whether
42 or not health insurance issuers are passing on anticipated savings from the reduction

1 in uncompensated care to policyholders, and what steps have been taken to ensure
2 that insurers are passing on those reduced costs to policyholders.

3 SECTION 18. AND BE IT FURTHER ENACTED, That, subject to the approval
4 of the Executive Director of the Department of Legislative Services, the publishers of
5 the Annotated Code of Maryland shall propose the correction of cross-references that
6 are rendered incorrect by this Act.

7 SECTION 19. AND BE IT FURTHER ENACTED, That Section 1 of this Act
8 shall take effect on the date that the Centers for Medicare and Medicaid Services
9 approves a plan amendment applied for in accordance with Section 11 of this Act. The
10 Department of Health and Mental Hygiene shall, within 5 working days of the date of
11 the approval of the State's waiver amendment application, notify the Department of
12 Legislative Services in writing at 90 State Circle, Annapolis, Maryland 21401.

13 SECTION 20. AND BE IT FURTHER ENACTED, That Section 2 of this Act
14 shall take effect on the date that the Centers for Medicare and Medicaid Services
15 approves a waiver amendment applied for in accordance with Section 12 of this Act.
16 The Department of Health and Mental Hygiene shall, within 5 working days of the
17 date of the approval of the State's waiver amendment application, notify the
18 Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland
19 21401. If the waiver amendment is denied, Section 2 of this Act shall be null and void
20 without the necessity of further action by the General Assembly.

21 SECTION 21. AND BE IT FURTHER ENACTED, That Section 3 of this Act
22 shall take effect on the date that the Centers for Medicare and Medicaid Services
23 approves a waiver amendment applied for in accordance with Section 13 of this Act.
24 The Department of Health and Mental Hygiene shall, within 5 working days of the
25 date of the approval of the State's waiver amendment application, notify the
26 Department of Legislative Services in writing at 90 State Circle, Annapolis, Maryland
27 21401. If the waiver amendment is denied, Section 3 of this Act shall be null and void
28 without the necessity of further action by the General Assembly.

29 SECTION 22. AND BE IT FURTHER ENACTED, That newly eligible Maryland
30 Medical Assistance Program parents shall be enrolled in MdCare under § 14-501 of
31 the Insurance Article as enacted by this Act. The Department of Health and Mental
32 Hygiene shall, within 5 working days of the date of the approval of the State's waiver
33 amendment application, notify the Department of Legislative Services in writing at
34 90 State Circle, Annapolis, Maryland 21401. If the waiver is denied, and subject to
35 Section 19 as enacted by this Act, all eligible parents shall be enrolled in the
36 Maryland Medical Assistance Program.

37 SECTION 23. AND BE IT FURTHER ENACTED, That Sections 5, 7, and 16 of
38 this Act shall take effect July 1, 2005.

39 SECTION 24. AND BE IT FURTHER ENACTED, That, subject to Section 19 of
40 this Act, Section 6 of this Act shall take effect July 1, 2005.

41 SECTION 25. AND BE IT FURTHER ENACTED, That Section 9 of this Act
42 shall take effect July 1, 2006.

1 SECTION 26. AND BE IT FURTHER ENACTED, That, subject to Section 19 of
2 this Act, Section 8 of this Act shall take effect July 1, 2006.

3 SECTION 27. AND BE IT FURTHER ENACTED, That, except as provided in
4 Sections 19, 20, 21, 22, 23, 24, 25, and 26 of this Act, this Act shall take effect July 1,
5 2004.