

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 324

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Delegate Hammen” and substitute “Delegates Hammen, Elliott, Eckardt, Benson, Boteler, Boutin, Bromwell, Costa, Donoghue, Frank, Goldwater, Hubbard, Hurson, Kach, Kullen, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon”; strike line 2 in its entirety and substitute “Maryland Pharmacy Programs - Modifications and Subsidies for Medicare Drug Benefits”; in line 3, after the first “of” insert “renaming the Senior Prescription Drug Program to be the Senior Prescription Drug Assistance Program”; in lines 3 and 4, strike “Senior Prescription Drug”; in line 5, after “of” insert “a portion of”; in the same line, strike “premiums, deductibles, and coinsurance” and substitute “or Medicare Advantage Plan premiums and deductibles”; strike beginning with “authorizing” in line 6 down through “Administrator” in line 10 and substitute “altering the amount of the subsidy a certain nonprofit health service plan is required to provide to the Program; repealing the requirement that a certain nonprofit health service plan administer the Program; requiring the Board of Directors of the Maryland Health Insurance Plan to contract with a third party to administer the Program; specifying the amount of the subsidy provided to enrollees by the Program; requiring an enrollee to pay a certain copayment or coinsurance amount; requiring the Program to establish a certain subsidy limit; altering the method of payment to the Program Administrator”; in line 12, strike “repealing a certain termination provision;” and substitute “altering certain eligibility requirements for the Maryland Pharmacy Assistance Program; repealing the Maryland Pharmacy Discount Program; establishing the Medicare Option Prescription Drug Program; establishing the purpose, administration, operation, and eligibility requirements of the Medicare Option Prescription Drug Program; authorizing the Secretary of Health and Mental Hygiene to administer the Medicare Option Prescription Drug Program as part of the Maryland Medical Assistance Program; authorizing the Department of Health and Mental Hygiene to take certain actions; requiring the Medicare Option Prescription Drug Program to provide benefits to certain individuals; requiring the Secretary to adopt regulations to implement the Medicare Option Prescription Drug Program; extending the termination date of the Senior Prescription Drug Program until a certain date; authorizing the Board of Directors of the Maryland”

(Over)

Health Insurance Plan to automatically transfer certain enrollees of the Senior Prescription Drug Program into the Senior Prescription Drug Assistance Program; authorizing the Board of Directors of the Maryland Health Insurance Plan to automatically assign certain enrollees to a Medicare Part D plan under certain circumstances, and to extend certain benefits to certain enrollees until a certain date, subject to certain limitations; providing that it is the intent of the General Assembly that the Medicare Option Prescription Drug Program be the payer of last resort and only cover certain costs;”; in line 14, after “definitions;” insert “defining certain terms;”; in line 16, strike “modifications of the Senior Prescription Drug Program” and substitute “Maryland pharmacy programs”; in line 19, after “Section” insert “14-106(c), (d), and (e), 14-504(b) and (e), and”; in line 24, strike “14-514” and substitute “14-504(a), 14-514,”; and after line 26, insert:

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 15-103(d) and 15-124(a) and (e)

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)

BY repealing

Article - Health - General

Section 15-124.1

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)

BY adding to

Article - Health - General

Section 15-124.3

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 3, insert:

“14-106.

(c) A nonprofit health service plan may satisfy the public service requirement of this section by establishing that, to the extent the value of the nonprofit health service plan's premium tax exemption under § 6-101(b) of this article exceeds the subsidy required under the Senior Prescription Drug ASSISTANCE Program established under Subtitle 5, Part II of this title, the plan has:

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

(2) provided financial or in-kind support for public health programs;

(3) employed underwriting standards in a manner that increases the availability of one or more health care services or products;

(4) employed pricing policies that enhance the affordability of health care services or products and result in a higher medical loss ratio than that established by a comparable for-profit health insurer; or

(5) served the public interest by any method or practice approved by the Commissioner.

(d) Notwithstanding subsection (c) of this section, a nonprofit health service plan that is subject to this section and issues comprehensive health care benefits in the State shall:

(1) offer health care products in the individual market;

(2) offer health care products in the small employer group market in accordance with Title 15, Subtitle 12 of this article; and

(3) [administer and] subsidize the Senior Prescription Drug ASSISTANCE Program established under Title 14, Subtitle 5, Part II of this title.

(e) The subsidy required under the Senior Prescription Drug ASSISTANCE Program

(Over)

may not exceed:

(1) FOR THE PERIOD OF JANUARY 1 THROUGH JUNE 30, 2006, \$8,000,000;

(2) FOR FISCAL YEAR 2007, \$14,000,000; AND

(3) FOR ANY YEAR, the value of the nonprofit health service plan's premium tax exemption under § 6-101(b) of this article.

14-504.

(a) (1) There is a Maryland Health Insurance Plan Fund.

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

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

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

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

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

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

(b) The Fund shall consist of:

(1) premiums for coverage that the Plan issues;

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

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

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

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

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

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

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

(9) money donated to the Fund; and

(10) money awarded to the Fund through grants.

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

(2) The Board shall maintain separate accounts within the Fund for the Senior Prescription Drug ASSISTANCE Program and the Maryland Health Insurance Plan.

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

AMENDMENT NO. 3

(Over)

On page 2, in line 9, after “PROGRAM” insert “OR A MEDICARE ADVANTAGE PLAN THAT PROVIDES PART D COVERAGE”; in lines 10 and 11, strike “Medicare Plus Choice managed care program or other insurance program” and substitute “HEALTH BENEFIT PLAN, OTHER THAN A MEDICARE PART D PRESCRIPTION DRUG PLAN OR A MEDICARE ADVANTAGE PLAN,”; in line 12, strike “Plan” and substitute “PROGRAM”; in line 14, strike “and”; after line 14, insert:

“(5) IS NOT ELIGIBLE FOR A FULL FEDERAL LOW-INCOME SUBSIDY UNDER 42 C.F.R. § 423.772; AND”;

in line 15, strike “(5)” and substitute “(6)”; in the same line, strike “and copayments” and substitute “, AND COPAYMENTS OR COINSURANCE,”; in the same line, strike “Plan” and substitute “PROGRAM”; in line 16, strike “Plan” and substitute “PROGRAM”; in lines 17 and 20, in each instance, after “Drug” insert “ASSISTANCE”; strike beginning with “THEIR” in line 25 down through “COINSURANCE.” in line 26 and substitute “A PORTION OF THEIR:”

(1) MEDICARE PART D PRESCRIPTION DRUG PLAN PREMIUM AND DEDUCTIBLE; OR

(2) MEDICARE ADVANTAGE PLAN PREMIUM AND DEDUCTIBLE RELATED TO A PRESCRIPTION DRUG BENEFIT.”;

strike beginning with “The” in line 27 down through “title” in line 28 and substitute “THE BOARD SHALL CONTRACT WITH A THIRD PARTY TO ADMINISTER THE PROGRAM”; and in line 29, strike “carrier that administers” and substitute “ADMINISTRATOR OF”.

AMENDMENT NO. 4

On page 3, in line 7, after the semicolon insert “AND”; strike in their entirety lines 8 through 13, inclusive; in line 14, strike “(5)” and substitute “(2)”; in the same line, after “FOR” insert “A PORTION OF”; in the same line, after “D” insert “AND MEDICARE ADVANTAGE PLAN DRUG-RELATED”; in line 15, strike “PREMIUMS, DEDUCTIBLES, AND COINSURANCE” and substitute “PREMIUMS AND DEDUCTIBLES”; and strike in their entirety lines 16 through 30, inclusive, and substitute:

“(B) THE SUBSIDY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE EQUAL TO:

(1) FOR THE MEDICARE PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN DRUG-RELATED PREMIUM:

(I) FOR INDIVIDUALS WHO DO NOT QUALIFY FOR A FEDERAL LOW-INCOME SUBSIDY, AT LEAST \$25 PER ENROLLEE PER MONTH; AND

(II) FOR INDIVIDUALS WHO QUALIFY FOR A PARTIAL FEDERAL LOW-INCOME SUBSIDY, THE LESSER OF:

1. THE AMOUNT PROVIDED UNDER ITEM (I) OF THIS ITEM; OR

2. THE FULL AMOUNT OF THE ENROLLEE SHARE OF THE PREMIUM; AND

(2) FOR THE MEDICARE PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN DRUG-RELATED DEDUCTIBLE, THE TOTAL AMOUNT OF THE DEDUCTIBLE, LESS THE COPAYMENT OR COINSURANCE AMOUNT SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

(C) AN ENROLLEE SHALL PAY A COPAYMENT OR COINSURANCE AMOUNT, INSTEAD OF A DEDUCTIBLE, EQUAL TO THE INITIAL COPAYMENT OR COINSURANCE AMOUNT FOR WHICH THE ENROLLEE IS RESPONSIBLE UNDER THE ENROLLEE’S MEDICARE PART D PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN AFTER THE DEDUCTIBLE IS SATISFIED.

(D) THE PROGRAM SHALL ESTABLISH AN ANNUAL SUBSIDY LIMIT FOR AN ENROLLEE.”.

On page 4, in lines 6 and 7, strike “carrier that administers the”; in line 7, after “Program” insert “ADMINISTRATOR”; strike beginning with the second “the” in line 10 down through “Program” in line 11 and substitute “A NONPROFIT HEALTH SERVICE PLAN,”; in lines 12 and 13, strike “Program Administrator” and substitute “NONPROFIT HEALTH PLAN REQUIRED TO SUBSIDIZE THE PROGRAM UNDER § 14-106(D) OF THIS TITLE”; strike beginning with the first “the” in line 19 down through “year” in line 20 and substitute “THE AMOUNTS SPECIFIED IN § 14-106(E) OF THIS TITLE”; and in lines 21 and 22, strike beginning with “Beginning” in line 21 down through “Administrator” in line 22 and substitute “THE BOARD SHALL PROVIDE FUNDS TO THE ADMINISTRATOR, IN ACCORDANCE WITH THE TERMS OF THE CONTRACT WITH THE ADMINISTRATOR,”.

AMENDMENT NO. 6

On page 5, after line 24, insert:

“Article - Health - General

15-124.

(a) The Department shall maintain a Maryland Pharmacy Assistance Program for low income individuals NOT ELIGIBLE FOR MEDICARE whose:

(1) Assets are not more than the level established by the Federal Centers for Medicare and Medicaid Services under the Qualified Medicare Beneficiary Program; and

(2) Gross annual income does not exceed 116% of the federal poverty guidelines for an individual, or 100% of the federal poverty guidelines for a family of two or more.

(e) The Secretary shall develop a program, in consultation with appropriate agencies, that will provide information to ineligible Maryland Pharmacy Assistance Program applicants regarding other programs that they may be eligible for including the Maryland Medbank Program established under § 15-124.2 of this subtitle and the Senior Prescription Drug ASSISTANCE Program established under Title 14, Subtitle 5 of the Insurance Article.

[15-124.1.

- (a) (1) In this section the following words have the meanings indicated:
- (2) “Enrollee” means an individual who is enrolled in the Maryland Pharmacy Discount Program.
- (3) “Program” means the Maryland Pharmacy Discount Program established under this section.
- (b) There is a Maryland Pharmacy Discount Program within the Maryland Medical Assistance Program.
- (c) The purpose of the Program is to improve the health status of Medicare beneficiaries who lack prescription drug coverage by providing access to lower cost, medically necessary, prescription drugs.
- (d) The Program shall be administered and operated by the Department as permitted by federal law or waiver.
- (e) (1) The Program shall be open to Medicare beneficiaries who lack other public or private prescription drug coverage.
- (2) Notwithstanding paragraph (1) of this subsection, enrollment in the Maryland Medbank Program established under § 15-124.2 of this subtitle or the Maryland Pharmacy Assistance Program established under § 15-124 of this subtitle does not disqualify an individual from being eligible for the Program.
- (f) (1) Subject to subsection (g) of this section, an enrollee may purchase medically necessary prescription drugs that are covered under the Maryland Medical Assistance Program from any pharmacy that participates in the Maryland Medical Assistance Program at a price that is based on the price paid by the Maryland Medical Assistance Program, minus the aggregate value of any federally mandated manufacturers’ rebates.

(Over)

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

(g) The Department may establish mechanisms to:

(1) Recover the administrative costs of the Program;

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

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

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

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

Article - Health - General

15-103.

(d) As permitted by federal law or waiver, the Secretary [shall] MAY administer the [Maryland Pharmacy Discount] MEDICARE OPTION PRESCRIPTION DRUG Program, established under §15.124.1 of this subtitle, as part of the Maryland Medical Assistance Program.

15-124.3.

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

INDICATED.

(2) “ENROLLEE” MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE PROGRAM.

(3) “MEDICARE MODERNIZATION ACT” MEANS THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.

(4) “MEDICARE PART D PRESCRIPTION DRUG BENEFIT” MEANS THE PRESCRIPTION DRUG BENEFIT ESTABLISHED BY THE MEDICARE MODERNIZATION ACT UNDER PART D OF THE FEDERAL MEDICARE PROGRAM.

(5) “PRESCRIPTION DRUG PLAN” MEANS A PRIVATE HEALTH PLAN THAT PROVIDES A MEDICARE PART D PRESCRIPTION DRUG BENEFIT IN ACCORDANCE WITH THE REQUIREMENTS OF THE MEDICARE MODERNIZATION ACT.

(6) “PROGRAM” MEANS THE MEDICARE OPTION PRESCRIPTION DRUG PROGRAM ESTABLISHED UNDER THIS SECTION.

(B) THERE IS A MEDICARE OPTION PRESCRIPTION DRUG PROGRAM WITHIN THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(C) THE PURPOSE OF THE PROGRAM IS TO:

(1) ASSIST LOW-INCOME MEDICARE ELIGIBLE INDIVIDUALS TO MAKE A SEAMLESS TRANSITION TO, AND COORDINATE PRESCRIPTION DRUG COVERAGE WITH, THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT; AND

(2) MINIMIZE THE COST-SHARING BURDEN ON THE INDIVIDUALS.

(D) THE PROGRAM SHALL BE ADMINISTERED AND OPERATED BY THE DEPARTMENT AS PERMITTED BY FEDERAL LAW OR WAIVER.

(Over)

- (E) (1) THE PROGRAM SHALL BE OPEN TO ANY INDIVIDUAL WHO:
- (I) IS A RESIDENT OF THE STATE;
 - (II) IS A MEDICARE BENEFICIARY;
 - (III) IS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN OR OTHER PUBLIC OR PRIVATE INSURANCE PROGRAM, EXCEPT FOR MEDICAID AND THE MARYLAND PHARMACY ASSISTANCE PROGRAM, THAT PROVIDES PRESCRIPTION DRUG BENEFITS AT THE TIME THAT THE INDIVIDUAL APPLIES FOR ENROLLMENT IN THE PROGRAM;
 - (IV) HAS AN ANNUAL HOUSEHOLD INCOME BELOW 150 PERCENT OF THE FEDERAL POVERTY LEVEL; AND
 - (V) MEETS THE ASSET TEST ESTABLISHED BY THE MEDICARE MODERNIZATION ACT UNDER MEDICARE PART D.
- (2) INDIVIDUALS WHO ARE DUALY ELIGIBLE FOR MEDICARE AND MEDICAID, OR MEDICARE AND THE MARYLAND PHARMACY ASSISTANCE PROGRAM, MAY BE ENROLLED AUTOMATICALLY IN THE PROGRAM, PROVIDED THAT THEY MAY ELECT TO OPT OUT OF THE PROGRAM.
- (3) ENROLLMENT IN THE PROGRAM FOR INDIVIDUALS WHO ARE DUALY ELIGIBLE FOR MEDICARE AND MEDICAID SHALL BEGIN NOT LATER THAN THE DATE ON WHICH THE AUTO-ENROLLMENT PERIOD FOR THE FEDERAL MEDICARE PART D PROGRAM BEGINS.
- (4) THE DEPARTMENT SHALL DETERMINE THE PROCEDURES FOR AUTOMATIC ENROLLMENT IN, AND ELECTION TO OPT OUT OF, THE PROGRAM.
- (5) INDIVIDUALS WHO MEET THE ELIGIBILITY REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION BUT WHO ARE NOT DUALY ELIGIBLE FOR

MEDICARE AND EITHER MEDICAID OR THE MARYLAND PHARMACY ASSISTANCE PROGRAM MAY APPLY FOR ENROLLMENT IN THE MEDICARE OPTION PRESCRIPTION DRUG PROGRAM BY SUBMITTING AN APPLICATION TO THE DEPARTMENT.

(F) THE DEPARTMENT MAY:

(1) ENTER INTO A CONTRACT WITH ONE OR MORE PRESCRIPTION DRUG PLANS TO COORDINATE THE PRESCRIPTION DRUG BENEFITS PROVIDED UNDER THE PROGRAM AND THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT;

(2) REQUIRE A PHARMACEUTICAL MANUFACTURER TO PROVIDE REBATES IN AN AMOUNT NOT LESS THAN THE REBATES PROVIDED TO THE MEDICAID PROGRAM UNDER §1927(C) OF TITLE XIX OF THE SOCIAL SECURITY ACT (42 U.S.C. §1396R-8) AS A CONDITION OF THE PHARMACEUTICAL MANUFACTURER'S PRODUCTS BEING AVAILABLE TO ENROLLEES;

(3) ENROLL ELIGIBLE INDIVIDUALS INTO A PRESCRIPTION DRUG PLAN UNDER CONTRACT WITH THE DEPARTMENT, WITH AN OPT-OUT PROVISION AT THE INDIVIDUAL'S DISCRETION;

(4) SPECIFY PROCEDURES FOR INDIVIDUALS TO APPLY FOR ENROLLMENT IN THE PROGRAM;

(5) CONTRACT WITH A PRIVATE ENTITY TO ASSIST IN ADMINISTRATION OF THE PROGRAM OR NEGOTIATIONS WITH PRESCRIPTION DRUG PLANS; AND

(6) PAY ALL OR PART OF THE PREMIUMS, DEDUCTIBLES, COINSURANCE PAYMENTS, AND COPAYMENTS REQUIRED UNDER THE MEDICARE PART D PROGRAM FOR ENROLLEES.

(G) SUBJECT TO AVAILABLE FUNDS, THE PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL PROVIDE BENEFITS TO THE MAXIMUM NUMBER OF

(Over)

INDIVIDUALS ELIGIBLE FOR ENROLLMENT IN THE PROGRAM.

(H) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.”.

AMENDMENT NO. 7

On page 6, in line 11, after the second “the” insert “[AT THE”]; in the same line, strike “2005” and substitute “2007”; in the same line, before “or” insert an opening bracket; in line 14, after “Assembly,” insert a closing bracket; in line 15, before “If” insert an opening bracket; and after line 24 insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Board of Directors of the Maryland Health Insurance Plan may transfer automatically each individual enrolled in the Senior Prescription Drug Program on December 31, 2005, into the Senior Prescription Drug Assistance Program on the effective date of Section 1 of this Act.

(b) The Board of Directors of the Maryland Health Insurance Plan may assign automatically and at random a Senior Prescription Drug Assistance Program enrollee to a Medicare Part D plan if, on the effective date of Section 1 of this Act, the enrollee has not selected a Medicare Part D or Medicare Advantage Plan.

SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding the effective date of the changes to the Senior Prescription Drug Program, as enacted by Sections 1 and 3 of this Act, the Board of Directors of the Maryland Health Insurance Plan, subject to the limitation on Program funding enacted by Section 1 of this Act, may extend until February 1, 2006, the full benefits of the Program, as the benefits existed prior to the availability of prescription drug benefits provided by Medicare Part D, to Program enrollees.

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Medicare Option Prescription Drug Program established under Section 3 of this Act be the payer of last resort and only cover costs for enrollees that are not covered under Part D of the federal Medicare program.”.

AMENDMENT NO. 8

On page 6, in line 25, strike “3.” and substitute “7.”; in the same line, strike “Section 1” and substitute “Sections 1 and 2”; in line 35, strike “4.” and substitute “8.”; in lines 35 and 36, strike “subject to the provisions of” and substitute “except as provided in”; and in line 36, strike “3” and substitute “7”.