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By: ~~Delegate Hammen~~ 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

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House action: Adopted  
Read second time: March 1, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Senior Prescription Drug Program – Modifications**  
3 **Maryland Pharmacy Programs - Modifications and Subsidies for Medicare**  
4 **Drug Benefits**

5 FOR the purpose of renaming the Senior Prescription Drug Program to be the Senior  
6 Prescription Drug Assistance Program; altering the eligibility requirements for  
7 and purpose of the ~~Senior Prescription Drug Program~~; requiring the Program to  
8 provide a State subsidy for the cost of a portion of Medicare Part D premiums,  
9 deductibles, and coinsurance or Medicare Advantage Plan premiums and  
10 deductibles; authorizing the Board of Directors of the Maryland Health  
11 Insurance Plan to reduce or limit copayments for certain enrollees; establishing  
12 priority for funding, if moneys in a certain account are insufficient to cover  
13 certain costs; altering the purpose for which the Board shall reimburse the  
14 Program Administrator altering the amount of the subsidy a certain nonprofit  
15 health service plan is required to provide to the Program; repealing the  
16 requirement that a certain nonprofit health service plan administer the  
17 Program; requiring the Board of Directors of the Maryland Health Insurance  
18 Plan to contract with a third party to administer the Program; specifying the  
19 amount of the subsidy provided to enrollees by the Program; requiring an  
20 enrollee to pay a certain copayment or coinsurance amount; requiring the  
21 Program to establish a certain subsidy limit; altering the method of payment to  
22 the Program Administrator; repealing a requirement that certain rebates or  
23 other discounts inure to the benefit of the Program and be deposited to the  
24 Maryland Health Insurance Plan Fund; ~~repealing a certain termination~~

1 ~~provision; altering certain eligibility requirements for the Maryland Pharmacy~~  
 2 ~~Assistance Program; repealing the Maryland Pharmacy Discount Program;~~  
 3 ~~establishing the Medicare Option Prescription Drug Program; establishing the~~  
 4 ~~purpose, administration, operation, and eligibility requirements of the Medicare~~  
 5 ~~Option Prescription Drug Program; authorizing the Secretary of Health and~~  
 6 ~~Mental Hygiene to administer the Medicare Option Prescription Drug Program~~  
 7 ~~as part of the Maryland Medical Assistance Program; authorizing the~~  
 8 ~~Department of Health and Mental Hygiene to take certain actions; requiring the~~  
 9 ~~Medicare Option Prescription Drug Program to provide benefits to certain~~  
 10 ~~individuals; requiring the Secretary to adopt regulations to implement the~~  
 11 ~~Medicare Option Prescription Drug Program; extending the termination date of~~  
 12 ~~the Senior Prescription Drug Program until a certain date; authorizing the~~  
 13 ~~Board of Directors of the Maryland Health Insurance Plan to automatically~~  
 14 ~~transfer certain enrollees of the Senior Prescription Drug Program into the~~  
 15 ~~Senior Prescription Drug Assistance Program; authorizing the Board of~~  
 16 ~~Directors of the Maryland Health Insurance Plan to automatically assign~~  
 17 ~~certain enrollees to a Medicare Part D plan under certain circumstances, and to~~  
 18 ~~extend certain benefits to certain enrollees until a certain date, subject to~~  
 19 ~~certain limitations; providing that it is the intent of the General Assembly that~~  
 20 ~~the Medicare Option Prescription Drug Program be the payer of last resort and~~  
 21 ~~only cover certain costs; requiring the Secretary of Health and Mental Hygiene~~  
 22 ~~to provide certain notice to the Department of Legislative Services; altering~~  
 23 ~~certain definitions; defining certain terms; providing for the effective date of~~  
 24 ~~certain provisions of this Act; and generally relating to modifications of the~~  
 25 ~~Senior Prescription Drug Program Maryland pharmacy programs.~~

26 BY repealing and reenacting, with amendments,  
 27 Article - Insurance  
 28 Section ~~14-106(c), (d), and (e), 14-504(b) and (e), and 14-510 through 14-513~~  
 29 Annotated Code of Maryland  
 30 (2002 Replacement Volume and 2004 Supplement)

31 BY repealing and reenacting, without amendments,  
 32 Article - Insurance  
 33 Section ~~14-514 14-504(a), 14-514, and 14-515~~  
 34 Annotated Code of Maryland  
 35 (2002 Replacement Volume and 2004 Supplement)

36 BY repealing and reenacting, with amendments,  
 37 Article - Health - General  
 38 Section ~~15-103(d) and 15-124(a) and (e)~~  
 39 Annotated Code of Maryland  
 40 (2000 Replacement Volume and 2004 Supplement)

41 BY repealing  
 42 Article - Health - General  
 43 Section ~~15-124.1~~

1 Annotated Code of Maryland  
2 (2000 Replacement Volume and 2004 Supplement)

3 BY adding to  
4 Article - Health - General  
5 Section 15-124.3  
6 Annotated Code of Maryland  
7 (2000 Replacement Volume and 2004 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Chapter 153 of the Acts of the General Assembly of 2002  
10 Section 13

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

13 **Article - Insurance**

14 14-106.

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

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

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

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

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

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

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

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

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

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

5       (e)     The subsidy required under the Senior Prescription Drug ASSISTANCE  
6 Program may not exceed:

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

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

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

11 14-504.

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

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

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

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

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

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

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

26       (b)     The Fund shall consist of:

27           (1)     premiums for coverage that the Plan issues;

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

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

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

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

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

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

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

7 (9) money donated to the Fund; and

8 (10) money awarded to the Fund through grants.

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

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

15 (3) Accounts within the Fund shall contain those moneys that are  
16 intended to support the operation of the Program for which the account is designated.  
17 14-510.

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

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

20 (1) is a resident of Maryland;

21 (2) is a Medicare beneficiary ENROLLED IN THE MEDICARE PART D  
22 VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM OR A MEDICARE ADVANTAGE  
23 PLAN THAT PROVIDES PART D COVERAGE;

24 (3) is not enrolled in a ~~Medicare Plus Choice managed care program or~~  
25 ~~other insurance program~~ HEALTH BENEFIT PLAN, OTHER THAN A MEDICARE PART D  
26 PRESCRIPTION DRUG PLAN OR A MEDICARE ADVANTAGE PLAN, that provides  
27 prescription drug benefits at the time that the individual applies for enrollment in the  
28 ~~Plan~~ PROGRAM;

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

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

33 (5) (6) pays the premium and copayments, AND COPAYMENTS OR  
34 COINSURANCE, for the Plan PROGRAM.

1 (c) "Enrollee" means an individual enrolled in the ~~Plan~~ PROGRAM.

2 (d) "Program" means the Senior Prescription Drug ASSISTANCE Program  
3 established under Part II of this subtitle.

4 14-511.

5 (a) There is a Senior Prescription Drug ASSISTANCE Program.

6 (b) The purpose of the Program is to provide Medicare PART D beneficiaries,  
7 who [lack prescription drug coverage, with access to affordable, medically necessary  
8 prescription drugs until such time as an outpatient prescription drug benefit is  
9 provided through the federal Medicare program] MEET PROGRAM ELIGIBILITY  
10 REQUIREMENTS, WITH A STATE SUBSIDY FOR THEIR MEDICARE PART D PREMIUMS,  
11 DEDUCTIBLES, AND COINSURANCE. A PORTION OF THEIR:

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

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

16 (c) ~~The Program shall be administered by a carrier as provided under §~~  
17 ~~14-106(d) of this title~~ THE BOARD SHALL CONTRACT WITH A THIRD PARTY TO  
18 ADMINISTER THE PROGRAM.

19 (d) ~~The carrier that administers~~ ADMINISTRATOR OF the Program shall:

20 (1) submit a detailed financial accounting of the Program to the Board as  
21 often as the Board requires;

22 (2) collect and submit to the Board data regarding the utilization  
23 patterns and costs for Program enrollees; and

24 (3) develop and implement a marketing plan targeted at eligible  
25 individuals throughout the State.

26 14-512.

27 (a) The Program shall:

28 (1) subject to the moneys available in the segregated account under §  
29 14-504 of this subtitle, provide benefits to the maximum number of individuals  
30 eligible for enrollment in the Program; AND

31 (2) ~~require a monthly premium charge of \$10 per enrollee;~~

32 (3) ~~not require a deductible; [and]~~

33 (4) ~~limit the copay charged an enrollee to:~~

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- 1 (i) \$10 for a prescription for a generic drug;
- 2 (ii) \$20 for a prescription for a preferred brand name drug; and
- 3 (iii) \$35 for a prescription for a nonpreferred brand name drug; AND

4 ~~(5)~~ (2) PROVIDE A STATE SUBSIDY FOR A PORTION OF THE COST OF  
 5 MEDICARE PART D AND MEDICARE ADVANTAGE PLAN DRUG-RELATED PREMIUMS,  
 6 DEDUCTIBLES, AND COINSURANCE PREMIUMS AND DEDUCTIBLES.

7 (b) ~~The Board may:~~

8 (1) limit the total annual benefit to \$1,000 per individual; AND

9 (2) ~~FOR ENROLLEES WITH ANNUAL HOUSEHOLD INCOME AT OR BELOW~~  
 10 ~~150% OF THE FEDERAL POVERTY GUIDELINES, REDUCE PROGRAM COPAYMENTS OR~~  
 11 ~~LIMIT COPAYMENTS TO THE AMOUNTS ESTABLISHED IN FEDERAL LAW FOR THE~~  
 12 ~~MEDICARE PART D BENEFIT.~~

13 (c) ~~{Subject to approval by the Board, the carrier that administers the~~  
 14 ~~Program shall develop a prescription drug formulary to be used in the Program} IF~~  
 15 ~~MONEYS AVAILABLE IN THE SEGREGATED ACCOUNT ESTABLISHED UNDER § 14 504~~  
 16 ~~OF THIS SUBTITLE ARE INSUFFICIENT TO COVER THE FULL COST OF MEDICARE PART~~  
 17 ~~D PREMIUMS, DEDUCTIBLES, AND COINSURANCE FOR ENROLLEES, THE PRIORITY~~  
 18 ~~FOR FUNDING SHALL BE:~~

19 (1) ~~PREMIUMS;~~

20 (2) ~~DEDUCTIBLES; AND~~

21 (3) ~~COINSURANCE.~~

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

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

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

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

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

31 OR

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

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

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

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

12 14-513.

13          (a)     As determined by the Board, premiums collected for the Program shall be  
 14 deposited:

15                 (1)     to a segregated account in the Fund established under § 14-504 of  
 16 this subtitle; or

17                 (2)     to a separate account for the Program established by the ~~carrier that~~  
 18 ~~administers the Program~~ ADMINISTRATOR.

19          (b)     In addition to premium income, the segregated account shall include:

20                 (1)     interest and investment income attributable to Program funds; and

21                 (2)     money deposited to the account by ~~the carrier that administers the~~  
 22 ~~Program~~ A NONPROFIT HEALTH SERVICE PLAN, in accordance with subsection (c) of  
 23 this section.

24          (c)     (1)     On or before April 1, 2003 and quarterly thereafter, the ~~Program~~  
 25 ~~Administrator~~ NONPROFIT HEALTH PLAN REQUIRED TO SUBSIDIZE THE PROGRAM  
 26 UNDER § 14-106(D) OF THIS TITLE shall deposit to the Fund under § 14-504 of this  
 27 subtitle the amount, in excess of premiums collected, that is necessary to operate and  
 28 administer the Program for the following quarter.

29                 (2)     The amount deposited shall be determined by the Board based on  
 30 enrollment, expenditures, and revenue for the previous year.

31                 (3)     The amount required by the Board under paragraph (2) of this  
 32 subsection may not exceed ~~the value of the Program Administrator's annual premium~~  
 33 ~~tax exemption under § 6-101(b) of this article for the previous calendar year~~ THE  
 34 AMOUNTS SPECIFIED IN § 14-106(E) OF THIS TITLE.

35                 (4)     ~~Beginning July 1 of each year and quarterly thereafter, the Board~~  
 36 ~~shall reimburse the Administrator~~ THE BOARD SHALL PROVIDE FUNDS TO THE  
 37 ADMINISTRATOR, IN ACCORDANCE WITH THE TERMS OF THE CONTRACT WITH THE



1 ADMINISTRATOR, for [prescription drug claims] THE COST OF THE STATE SUBSIDY  
2 and administrative expenses incurred on behalf of the Program.

3 [(5) Any rebates or other discounts obtained by the Program  
4 Administrator as a result of prescription drug purchases on behalf of Program  
5 enrollees from a pharmaceutical benefit manager or pharmaceutical manufacturer  
6 shall inure to the benefit of the Program and be deposited to the Fund.]

7 14-514.

8 (a) On or before June 30 of each year, the Board shall submit a report to the  
9 Governor and, in accordance with § 2-1246 of the State Government Article, to the  
10 General Assembly that includes a summary of Program activities for the year and any  
11 recommendations for consideration by the General Assembly.

12 (b) The Board shall adopt regulations to carry out Part II of this subtitle.

13 14-515.

14 (a) For the purpose of maximizing participation in the Program, the Board  
15 may develop outreach materials for distribution to eligible individuals.

16 (b) The Board shall publicize the existence and eligibility requirements of the  
17 Program through the following entities:

- 18 (1) the Department of Aging;
- 19 (2) local health departments;
- 20 (3) continuing care retirement communities;
- 21 (4) places of worship;
- 22 (5) civic organizations;
- 23 (6) community pharmacies; and
- 24 (7) any other entity that the Board determines appropriate.

25 (c) The Department of Aging, through its Senior Health Insurance Program,  
26 shall:

- 27 (1) assist eligible individuals in applying for coverage under the  
28 Program; and
- 29 (2) provide notice of the Program and its eligibility requirements to  
30 potentially eligible individuals who seek health insurance counseling services  
31 through the Department of Aging.

32 (d) The Board shall develop a mail-in application for the Program.

1 (e) Any outreach performed by the Board on behalf of the Program shall be  
2 funded through the Program's segregated account within the Fund.

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

5 **Article - Health - General**

6 15-124.

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

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

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

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

21 [15-124.1.

22 (a) (1) In this section the following words have the meanings indicated:

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

25 (3) "Program" means the Maryland Pharmacy Discount Program  
26 established under this section.

27 (b) There is a Maryland Pharmacy Discount Program within the Maryland  
28 Medical Assistance Program.

29 (c) The purpose of the Program is to improve the health status of Medicare  
30 beneficiaries who lack prescription drug coverage by providing access to lower cost,  
31 medically necessary, prescription drugs.

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

34 (e) (1) The Program shall be open to Medicare beneficiaries who lack other  
35 public or private prescription drug coverage.

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

5       (f)       (1)       Subject to subsection (g) of this section, an enrollee may purchase  
6 medically necessary prescription drugs that are covered under the Maryland Medical  
7 Assistance Program from any pharmacy that participates in the Maryland Medical  
8 Assistance Program at a price that is based on the price paid by the Maryland  
9 Medical Assistance Program, minus the aggregate value of any federally mandated  
10 manufacturers' rebates.

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

17       (g)       The Department may establish mechanisms to:

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

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

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

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

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

28                                       **Article - Health - General**

29 15-103.

30       (d)       As permitted by federal law or waiver, the Secretary [shall] MAY  
31 administer the [Maryland Pharmacy Discount] MEDICARE OPTION PRESCRIPTION  
32 DRUG Program, established under § 15-124.1 of this subtitle, as part of the Maryland  
33 Medical Assistance Program.

34 15-124.3.

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

1 (2) "ENROLLEE" MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE  
2 PROGRAM.

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

5 (4) "MEDICARE PART D PRESCRIPTION DRUG BENEFIT" MEANS THE  
6 PRESCRIPTION DRUG BENEFIT ESTABLISHED BY THE MEDICARE MODERNIZATION  
7 ACT UNDER PART D OF THE FEDERAL MEDICARE PROGRAM.

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

11 (6) "PROGRAM" MEANS THE MEDICARE OPTION PRESCRIPTION DRUG  
12 PROGRAM ESTABLISHED UNDER THIS SECTION.

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

15 (C) THE PURPOSE OF THE PROGRAM IS TO:

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

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

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

22 (E) (1) THE PROGRAM SHALL BE OPEN TO ANY INDIVIDUAL WHO:

23 (I) IS A RESIDENT OF THE STATE;

24 (II) IS A MEDICARE BENEFICIARY;

25 (III) IS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN OR  
26 OTHER PUBLIC OR PRIVATE INSURANCE PROGRAM, EXCEPT FOR MEDICAID AND THE  
27 MARYLAND PHARMACY ASSISTANCE PROGRAM, THAT PROVIDES PRESCRIPTION  
28 DRUG BENEFITS AT THE TIME THAT THE INDIVIDUAL APPLIES FOR ENROLLMENT IN  
29 THE PROGRAM;

30 (IV) HAS AN ANNUAL HOUSEHOLD INCOME BELOW 150 PERCENT OF  
31 THE FEDERAL POVERTY LEVEL; AND

32 (V) MEETS THE ASSET TEST ESTABLISHED BY THE MEDICARE  
33 MODERNIZATION ACT UNDER MEDICARE PART D.

34 (2) INDIVIDUALS WHO ARE DUALY ELIGIBLE FOR MEDICARE AND  
35 MEDICAID, OR MEDICARE AND THE MARYLAND PHARMACY ASSISTANCE PROGRAM.

1 MAY BE ENROLLED AUTOMATICALLY IN THE PROGRAM, PROVIDED THAT THEY MAY  
2 ELECT TO OPT OUT OF THE PROGRAM.

3 (3) ENROLLMENT IN THE PROGRAM FOR INDIVIDUALS WHO ARE  
4 DUALLY ELIGIBLE FOR MEDICARE AND MEDICAID SHALL BEGIN NOT LATER THAN  
5 THE DATE ON WHICH THE AUTO-ENROLLMENT PERIOD FOR THE FEDERAL  
6 MEDICARE PART D PROGRAM BEGINS.

7 (4) THE DEPARTMENT SHALL DETERMINE THE PROCEDURES FOR  
8 AUTOMATIC ENROLLMENT IN, AND ELECTION TO OPT OUT OF, THE PROGRAM.

9 (5) INDIVIDUALS WHO MEET THE ELIGIBILITY REQUIREMENTS OF  
10 PARAGRAPH (1) OF THIS SUBSECTION BUT WHO ARE NOT DUALLY ELIGIBLE FOR  
11 MEDICARE AND EITHER MEDICAID OR THE MARYLAND PHARMACY ASSISTANCE  
12 PROGRAM MAY APPLY FOR ENROLLMENT IN THE MEDICARE OPTION PRESCRIPTION  
13 DRUG PROGRAM BY SUBMITTING AN APPLICATION TO THE DEPARTMENT.

14 (F) THE DEPARTMENT MAY:

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

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

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

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

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

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

33 (G) SUBJECT TO AVAILABLE FUNDS, THE PROGRAM ESTABLISHED UNDER  
34 THIS SUBTITLE SHALL PROVIDE BENEFITS TO THE MAXIMUM NUMBER OF  
35 INDIVIDUALS ELIGIBLE FOR ENROLLMENT IN THE PROGRAM.

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

1

**Chapter 153 of the Acts of 2002**

2 SECTION 13. AND BE IT FURTHER ENACTED, That:

3 (1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene  
4 and the carrier that is required to offer the Short-Term Prescription Drug Subsidy  
5 Plan under Title 15, Subtitle 6 of the Health - General Article shall transfer all Plan  
6 records, data, and other information necessary to operate and administer the Senior  
7 Prescription Drug Program established under this Act to the Board of the Maryland  
8 Health Insurance Plan.

9 (2) Each individual enrolled in the Short-Term Prescription Drug Subsidy  
10 Plan, established under Title 15, Subtitle 6 of the Health - General Article, on June  
11 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary  
12 premiums and copayments, be automatically enrolled in the Senior Prescription Drug  
13 Program established under this Act.

14 (3) It is the intent of the General Assembly that the transition of enrollees  
15 from the Short-Term Prescription Drug Subsidy Plan to the Senior Prescription Drug  
16 Program be accomplished without interruption of benefits for enrollees.

17 (4) Benefits shall be offered to enrollees through the Senior Prescription Drug  
18 Program established under Title 14, Subtitle 5, Part II of the Insurance Article  
19 beginning July 1, 2003. [On the earlier of the] AT THE end of June 30, ~~2005~~ 2007, [or  
20 the availability of comparable prescription drug benefits provided by Medicare under  
21 Title XVIII of the Social Security Act, as amended, with no further action required by  
22 the General Assembly,] the Senior Prescription Drug Program established under  
23 Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force  
24 and effect. [If comparable prescription drug benefits are provided by Medicare under  
25 Title XVIII of the Social Security Act, the Secretary of Health and Mental Hygiene  
26 shall notify the Department of Legislative Services, 90 State Circle, Annapolis,  
27 Maryland 21401 no later than 90 days before the prescription drug benefits are to be  
28 provided.]

29 (5) Beginning April 1, 2003, the carrier required to offer the Short-Term  
30 Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health - General  
31 Article and the Senior Prescription Drug Program under Title 14, Subtitle 5 of the  
32 Insurance Article shall subsidize the Plan and beginning July 1, 2003, the Program,  
33 using the value of the carrier's premium tax exemption.

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

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

39 (b) The Board of Directors of the Maryland Health Insurance Plan may assign  
40 automatically and at random a Senior Prescription Drug Assistance Program enrollee

1 to a Medicare Part D plan if, on the effective date of Section 1 of this Act, the enrollee  
2 has not selected a Medicare Part D or Medicare Advantage Plan.

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

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

14 SECTION ~~3-7.~~ AND BE IT FURTHER ENACTED, That ~~Section 4~~ Sections 1  
15 and 2 of this Act shall take effect on the later of January 1, 2006 or the availability of  
16 prescription drug benefits provided by Medicare Part D under Title XVIII of the  
17 Social Security Act, as amended. The Secretary of Health and Mental Hygiene shall  
18 notify the Department of Legislative Services, 90 State Circle, Annapolis, Maryland  
19 21401 no later than December 15, 2005 regarding the availability on January 1, 2006  
20 of prescription drug benefits provided by Medicare Part D and, if prescription drug  
21 benefits provided by Medicare Part D are not available on January 1, 2006, the  
22 Secretary of Health and Mental Hygiene shall notify the Department of Legislative  
23 Services no later than 15 days before the prescription drug benefits are to become  
24 available.

25 SECTION ~~4-8.~~ AND BE IT FURTHER ENACTED, That, ~~subject to the~~  
26 provisions of ~~except as provided in~~ Section ~~3~~ 7 of this Act, this Act shall take effect  
27 July 1, 2005.