

ENROLLED BILL

-- Finance/Health and Government Operations --

Introduced by ~~Senator Middleton~~ **Senators Middleton, Astle, Della, Exum, Gladden, Hafer, Hooper, Kelley, Klausmeier, Pipkin, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

5 FOR the purpose of ~~extending the termination date of the Senior Prescription Drug~~
6 ~~Program; and generally relating to the Senior Prescription Drug Program.~~
7 renaming the Senior Prescription Drug Program to be the Senior Prescription
8 Drug Assistance Program; altering the eligibility requirements for and purpose
9 of the Program; requiring the Program to provide a State subsidy for the cost of
10 a portion of Medicare Part D or Medicare Advantage Plan premiums and
11 deductibles; altering the amount of the subsidy a certain nonprofit health
12 service plan is required to provide to the Program; repealing the requirement
13 that a certain nonprofit health service plan administer the Program; requiring
14 the Board of Directors of the Maryland Health Insurance Plan to contract with
15 a third party to administer the Program; specifying the amount of the subsidy
16 provided to enrollees by the Program; requiring an enrollee to pay a certain

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

30 BY repealing and reenacting, with amendments,

31 Article - Insurance
32 Section 14-106(c), (d), and (e), 14-504(b) and (e), and 14-510 through 14-513
33 Annotated Code of Maryland
34 (2002 Replacement Volume and 2004 Supplement)

35 BY repealing and reenacting, without amendments,

36 Article - Insurance
37 Section 14-504(a), 14-514, and 14-515
38 Annotated Code of Maryland
39 (2002 Replacement Volume and 2004 Supplement)

40 BY repealing and reenacting, with amendments,

41 Article - Health - General
42 Section 15-103(d) and 15-124(a) and (e)
43 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY repealing

3 Article - Health - General

4 Section 15-124.1

5 Annotated Code of Maryland

6 (2000 Replacement Volume and 2004 Supplement)

7 BY adding to

8 Article - Health - General

9 Section 15-124.3

10 Annotated Code of Maryland

11 (2000 Replacement Volume and 2004 Supplement)

12 BY repealing and reenacting, with amendments,

13 Chapter 153 of the Acts of the General Assembly of 2002

14 Section 13

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Insurance**

18 14-106.

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

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

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

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

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

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

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

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

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

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

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

11 (1) FOR THE PERIOD OF JANUARY 1, 2006, THROUGH JUNE 30, 2006,
12 \$8,000,000;

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

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

16 14-504.

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

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

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

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

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

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

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

31 (b) The Fund shall consist of:

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

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

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

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

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

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

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

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

13 (9) money donated to the Fund; and

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

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

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

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

23 14-510.

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

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

26 (1) is a resident of Maryland;

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

30 (3) is not enrolled in a [Medicare Plus Choice managed care program or
 31 other insurance program] HEALTH BENEFIT PLAN, OTHER THAN A MEDICARE PART D
 32 PRESCRIPTION DRUG PLAN OR A MEDICARE ADVANTAGE PLAN, that provides
 33 prescription drug benefits at the time that the individual applies for enrollment in the
 34 [Plan] PROGRAM;

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

3 (5) IS NOT ELIGIBLE FOR A FULL FEDERAL LOW-INCOME SUBSIDY
4 UNDER 42 C.F.R. § 423.722; AND

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

7 (c) "Enrollee" means an individual enrolled in the [Plan] PROGRAM.

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

10 14-511.

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

12 (b) The purpose of the Program is to provide Medicare PART D beneficiaries,
13 who [lack prescription drug coverage, with access to affordable, medically necessary
14 prescription drugs until such time as an outpatient prescription drug benefit is
15 provided through the federal Medicare program] MEET PROGRAM ELIGIBILITY
16 REQUIREMENTS, WITH A STATE SUBSIDY FOR A PORTION OF THEIR:

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

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

21 (c) [The Program shall be administered by a carrier as provided under §
22 14-106(d) of this title] THE BOARD SHALL CONTRACT WITH A THIRD PARTY TO
23 ADMINISTER THE PROGRAM.

24 (d) The [carrier that administers] ADMINISTRATOR OF the Program shall:

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

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

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

31 14-512.

32 (a) The Program shall:

1 (1) subject to the moneys available in the segregated account under §
 2 14-504 of this subtitle, provide benefits to the maximum number of individuals
 3 eligible for enrollment in the Program; AND

4 [(2) require a monthly premium charge of \$10 per enrollee;

5 (3) not require a deductible; and

6 (4) limit the copay charged an enrollee to:

7 (i) \$10 for a prescription for a generic drug;

8 (ii) \$20 for a prescription for a preferred brand name drug; and

9 (iii) \$35 for a prescription for a nonpreferred brand name drug.]

10 (2) PROVIDE A STATE SUBSIDY FOR A PORTION OF THE COST OF
 11 MEDICARE PART D AND MEDICARE ADVANTAGE PLAN DRUG-RELATED PREMIUMS
 12 AND DEDUCTIBLES.

13 (b) [The Board may limit the total annual benefit to \$1,000 per individual]
 14 THE SUBSIDY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE EQUAL
 15 TO:

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

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

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

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

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

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

30 (c) [Subject to approval by the Board, the carrier that administers the
 31 Program shall develop a prescription drug formulary to be used in the Program] AN
 32 ENROLLEE SHALL PAY A COPAYMENT OR COINSURANCE AMOUNT, INSTEAD OF A
 33 DEDUCTIBLE, EQUAL TO THE INITIAL COPAYMENT OR COINSURANCE AMOUNT FOR
 34 WHICH THE ENROLLEE RESPONSIBLE UNDER THE ENROLLEE'S MEDICARE PART D
 35 PRESCRIPTION DRUG PLAN OR MEDICARE ADVANTAGE PLAN AFTER THE
 36 DEDUCTIBLE IS SATISFIED.

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

3 14-513.

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

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

8 (2) to a separate account for the Program established by the [carrier
9 that administers the] Program ADMINISTRATOR.

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

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

12 (2) money deposited to the account by [the carrier that administers the
13 Program] A NONPROFIT HEALTH SERVICE PLAN, in accordance with subsection (c) of
14 this section.

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

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

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

26 (4) [Beginning July 1 of each year and quarterly thereafter, the Board
27 shall reimburse the Administrator] THE BOARD SHALL PROVIDE FUNDS TO THE
28 ADMINISTRATOR, IN ACCORDANCE WITH THE TERMS OF THE CONTRACT WITH THE
29 ADMINISTRATOR, for [prescription drug claims] THE COST OF THE STATE SUBSIDY
30 and administrative expenses incurred on behalf of the Program.

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

1 14-514.

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

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

7 14-515.

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

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

12 (1) the Department of Aging;

13 (2) local health departments;

14 (3) continuing care retirement communities;

15 (4) places of worship;

16 (5) civic organizations;

17 (6) community pharmacies; and

18 (7) any other entity that the Board determines appropriate.

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

21 (1) assist eligible individuals in applying for coverage under the
22 Program; and

23 (2) provide notice of the Program and its eligibility requirements to
24 potentially eligible individuals who seek health insurance counseling services
25 through the Department of Aging.

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

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

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

Article - Health - General

1
2 15-124.

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

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

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

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

17 [15-124.1.

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

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

21 (3) "Program" means the Maryland Pharmacy Discount Program
22 established under this section.

23 (b) There is a Maryland Pharmacy Discount Program within the Maryland
24 Medical Assistance Program.

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

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

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

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

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

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

13 (g) The Department may establish mechanisms to:

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

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

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

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

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

24 **Article - Health - General**

25 15-103.

26 (d) As permitted by federal law or waiver, the Secretary [shall] MAY
 27 administer the [Maryland Pharmacy Discount] MEDICARE OPTION PRESCRIPTION
 28 DRUG Program, established under § 15-124.3 of this subtitle, as part of the Maryland
 29 Medical Assistance Program.

30 15-124.3.

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

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

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

1 (4) "MEDICARE PART D PRESCRIPTION DRUG BENEFIT" MEANS THE
2 PRESCRIPTION DRUG BENEFIT ESTABLISHED BY THE MEDICARE MODERNIZATION
3 ACT UNDER PART D OF THE FEDERAL MEDICARE PROGRAM.

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

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

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

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

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

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

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

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

19 (I) IS A RESIDENT OF THE STATE;

20 (II) IS A MEDICARE BENEFICIARY;

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

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

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

30 (2) INDIVIDUALS WHO ARE DUALY ELIGIBLE FOR MEDICARE AND
31 MEDICAID, OR MEDICARE AND THE MARYLAND PHARMACY ASSISTANCE PROGRAM,
32 MAY BE ENROLLED AUTOMATICALLY IN THE PROGRAM, PROVIDED THAT THEY MAY
33 ELECT TO OPT OUT OF THE PROGRAM.

34 (3) ENROLLMENT IN THE PROGRAM FOR INDIVIDUALS WHO ARE
35 DUALY ELIGIBLE FOR MEDICARE AND MEDICAID SHALL BEGIN NOT LATER THAN

1 THE DATE ON WHICH THE AUTO-ENROLLMENT PERIOD FOR THE FEDERAL
2 MEDICARE PART D PROGRAM BEGINS.

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

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

10 (F) THE DEPARTMENT MAY:

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

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

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

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

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

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

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

32 (H) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
33 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 end of SIXTY DAYS AFTER [June 30,
20 2005] MARCH 31, 2006, or the availability of comparable prescription drug benefits
21 provided by Medicare PART D under Title XVIII of the Social Security Act, as
22 amended, with no further action required by the General Assembly, the Senior
23 Prescription Drug Program established under Title 14, Subtitle 5, Part II, as
24 amended, shall be abrogated and of no further force and effect. If comparable
25 prescription drug benefits are provided by Medicare under Title XVIII of the Social
26 Security Act, the Secretary of Health and Mental Hygiene shall notify the
27 Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 no
28 later than 90 days before the prescription drug benefits are to be provided. The
29 Secretary of Health and Mental Hygiene shall notify the Department of Legislative
30 Services, 90 State Circle, Annapolis, Maryland 21401 no later than 15 days after the
31 date prescription drug benefits provided by Medicare Part D become available.~~

32 *(4) Benefits shall be offered to enrollees through the Senior Prescription Drug*
33 *Program established under Title 14, Subtitle 5, Part II of the Insurance Article*
34 *beginning July 1, 2003. [On the earlier of the] AT THE end of June 30, [2005] 2007,*
35 *[or the availability of comparable prescription drug benefits provided by Medicare*
36 *under Title XVIII of the Social Security Act, as amended, with no further action*
37 *required by the General Assembly,] the Senior Prescription Drug Program established*
38 *under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further*
39 *force and effect. [If comparable prescription drug benefits are provided by Medicare*
40 *under Title XVIII of the Social Security Act, the Secretary of Health and Mental*
41 *Hygiene shall notify the Department of Legislative Services, 90 State Circle,*
42 *Annapolis, Maryland 21401 no later than 90 days before the prescription drug benefits*
43 *are to be provided.]*

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

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

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

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

15 SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding the
16 effective date of the changes to the Senior Prescription Drug Program, as enacted by
17 Sections 1 and 3 of this Act, the Board of Directors of the Maryland Health Insurance
18 Plan, subject to the limitation on Program funding enacted by Section 1 of this Act,
19 may extend, for up to 60 days after the availability of prescription drug benefits
20 provided by Medicare Part D under Title XVIII of the Social Security Act, as amended,
21 until February 1, 2006, the full benefits of the Program, as the benefits existed prior
22 to the availability of prescription drug benefits provided by Medicare Part D, to
23 Program enrollees.

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

28 SECTION 7. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
29 Act shall take effect on the later of January 1, 2006 or the availability of prescription
30 drug benefits provided by Medicare Part D under Title XVIII of the Social Security
31 Act, as amended. The Secretary of Health and Mental Hygiene shall notify the
32 Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401 no
33 later than 15 days after the date prescription drug benefits provided by Medicare
34 Part D become available December 15, 2005, regarding the availability on January 1,
35 2006, of prescription drug benefits provided by Medicare Part D, and, if prescription
36 drug benefits provided by Medicare Part D are not available on January 1, 2006, the
37 Secretary of Health and Mental Hygiene shall notify the Department of Legislative
38 Services no later than 15 days before the prescription drug benefits are to become
39 available.

40 SECTION 2- 8. AND BE IT FURTHER ENACTED, That, except as provided in
41 Section 7 of this Act, this Act shall take effect July 1, 2005.