

SENATE BILL 881

C3
SB 682/05 – FIN & JPR

71r2648

By: **Senators Harris and Zirkin**

Introduced and read first time: February 21, 2007

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **No-Fault Cerebral Palsy Insurance Fund**

3 FOR the purpose of establishing certain procedures to be followed if the response to a
4 claim against a health care provider for damage due to a medical injury includes
5 an assertion that the claim is subject to certain other procedures relating to
6 birth-related neurological impairments; altering the purposes of the Maryland
7 Health Care Provider Rate Stabilization Fund to include paying certain medical
8 expenses of individuals with birth-related neurological impairments; requiring
9 a certain portion of the Medical Assistance Program Account to be used to pay
10 these expenses; requiring disbursements from the Medical Assistance Program
11 Account to be made to the No-Fault Cerebral Palsy Insurance Fund in a certain
12 amount; establishing the No-Fault Cerebral Palsy Insurance Fund to pay
13 certain expenses of claimants who are diagnosed as having a birth-related
14 neurological impairment under certain circumstances; requiring the Director of
15 the Fund to administer the Fund; requiring the Director to be appointed by and
16 serve at the pleasure of the Maryland Insurance Commissioner; providing that
17 the Fund is a special, nonlapsing fund; requiring the State Treasurer to hold the
18 Fund separately and the Comptroller to account for the Fund; requiring the
19 Insurance Commissioner to adopt certain regulations; providing that the Fund
20 consists of revenue distributed to the Fund from the Medical Assistance
21 Program Account, interest and other income, and certain other money;
22 authorizing the Fund to be used only to pay claims under the Fund and the
23 costs of administering the Fund; establishing that the rights and remedies
24 under the Fund exclude all other rights and remedies for birth-related
25 neurological impairments under certain circumstances; establishing that filing
26 a civil action for a birth-related neurological impairment is not precluded under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain circumstances; establishing procedures for the determination of
 2 coverage under the Fund; establishing procedures to appeal a certain
 3 determination of coverage to a certain arbitration panel; providing for an appeal
 4 of the determination of the arbitration panel to a certain circuit court;
 5 establishing procedures for certain payments from the Fund in certain amounts
 6 under certain circumstances; prohibiting compensation for legal services in
 7 connection with claims under the Fund except under certain circumstances;
 8 requiring the Director to report all claims under the Fund to the State Board of
 9 Physicians for a certain determination; requiring medical professional liability
 10 insurers to identify in rate filings any savings that result from the Fund and to
 11 decrease rates to reflect that savings; defining certain terms; providing for the
 12 application of this Act; and generally relating to an insurance fund for children
 13 with birth-related neurological impairments.

14 BY repealing and reenacting, with amendments,
 15 Article – Courts and Judicial Proceedings
 16 Section 3–2A–04(a)
 17 Annotated Code of Maryland
 18 (2006 Replacement Volume)

19 BY repealing and reenacting, with amendments,
 20 Article – Insurance
 21 Section 19–802 and 19–807
 22 Annotated Code of Maryland
 23 (2006 Replacement Volume and 2006 Supplement)

24 BY adding to
 25 Article – Insurance
 26 Section 19–901 through 19–911 to be under the new subtitle “Subtitle 9.
 27 No–Fault Cerebral Palsy Insurance Fund”
 28 Annotated Code of Maryland
 29 (2006 Replacement Volume and 2006 Supplement)

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

32 **Article – Courts and Judicial Proceedings**

33 3–2A–04.

34 (a) (1) (i) A person having a claim against a health care provider for
 35 damage due to a medical injury shall file the claim with the Director and, if the claim

1 is against a physician, the Director shall forward copies of the claim to the State Board
2 of Physicians.

3 (ii) The Director shall cause a copy of the claim to be served
4 upon the health care provider by the appropriate sheriff in accordance with the
5 Maryland Rules.

6 (iii) The health care provider shall file a response with the
7 Director and serve a copy on the claimant and all other health care providers named
8 therein within the time provided in the Maryland Rules for filing a responsive
9 pleading to a complaint.

10 (iv) The claim and the response may include a statement that
11 the matter in controversy falls within one or more particular recognized specialties.

12 (2) A third-party claim shall be filed within 30 days of the response of
13 the third-party claimant to the original claim unless the parties consent to a later
14 filing or a later filing is allowed by the panel chairman or the court, as the case may
15 be, for good cause shown.

16 (3) A claimant may not add a new defendant after the arbitration
17 panel has been selected, or 10 days after the prehearing conference has been held,
18 whichever is later.

19 (4) Until all costs attributable to the first filing have been satisfied, a
20 claimant may not file a second claim on the same or substantially the same grounds
21 against any of the same parties.

22 (5) (I) **IF THE RESPONSE OF A HEALTH CARE PROVIDER**
23 **INCLUDES AN ASSERTION THAT THE CLAIM IS SUBJECT TO THE EXCLUSIVE**
24 **PROCEDURES OF TITLE 19, SUBTITLE 9 OF THE INSURANCE ARTICLE:**

25 **1. THE DIRECTOR SHALL STAY THE PROCEEDINGS**
26 **UNDER THIS SUBTITLE; AND**

27 **2. THE CLAIMANT SHALL FILE A CLAIM FOR**
28 **COVERAGE WITH THE NO-FAULT CEREBRAL PALSY INSURANCE FUND UNDER**
29 **TITLE 19, SUBTITLE 9 OF THE INSURANCE ARTICLE.**

1 (c) The Fund shall consist of:

2 (1) the revenue from the tax imposed on health maintenance
3 organizations and managed care organizations under § 6–102 of this article;

4 (2) interest or other income earned on the moneys in the Fund; and

5 (3) any other money from any other source accepted for the benefit of
6 the Fund.

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

9 (e) The State Treasurer shall hold the Fund separately and the Comptroller
10 shall account for the Fund.

11 (f) The State Treasurer shall invest the money of the Fund in the same
12 manner as other State money may be invested.

13 (g) The Fund comprises:

14 (1) the Rate Stabilization Account from which disbursements shall be
15 made to pay for health care provider rate subsidies; and

16 (2) the Medical Assistance Program Account from which
17 disbursements shall be made to:

18 (i) provide an increase in fee-for-service health care provider
19 rates paid by the Maryland Medical Assistance Program;

20 (ii) provide an increase for managed care organization health
21 care providers consistent with fee-for-service health care provider rate increases;

22 (iii) provide an increase in capitation payments to managed care
23 organizations participating in the Maryland Medical Assistance Program consistent
24 with § 15–103(b)(18) of the Health – General Article; [and]

25 (IV) PROVIDE REVENUE TO THE NO-FAULT CEREBRAL
26 PALSY INSURANCE FUND; AND

1 [(iv)] (v) after fiscal year 2009, maintain rates for health care
2 providers and generally to support the operations of the Maryland Medical Assistance
3 Program.

4 19–807.

5 (a) (1) The Commissioner shall disburse money from the Medical
6 Assistance Program Account to the Secretary.

7 (2) The Secretary shall transfer to the Community Health Resources
8 Commission Fund established under § 19–2201 of the Health – General Article, within
9 30 days following the end of each quarter during fiscal year 2008 and each fiscal year
10 thereafter, the money collected from a nonprofit health maintenance organization in
11 accordance with § 6–121(b)(3) of this article.

12 (b) (1) In fiscal year 2005, disbursements from the Medical Assistance
13 Program Account shall be used by the Secretary to increase capitation rates paid to
14 managed care organizations.

15 (2) Beginning in fiscal year 2006 and annually thereafter, to maintain
16 the rate increases provided under this paragraph, disbursements from the Medical
17 Assistance Program Account of \$15,000,000 shall be used by the Secretary to increase
18 fee–for–service health care provider rates and to pay managed care organization
19 health care providers consistent with fee–for–service health care provider rates for
20 procedures commonly performed by:

21 (i) obstetricians;

22 (ii) neurosurgeons;

23 (iii) orthopedic surgeons; and

24 (iv) emergency medicine physicians.

25 (3) [Portions] **SUBJECT TO SUBSECTION (D) OF THIS SECTION,**
26 **PORTIONS** of the Medical Assistance Program Account that exceed the amount
27 provided under paragraph (2) of this subsection shall be used by the Secretary [only]
28 to:

29 (i) increase capitation payments to managed care organizations
30 consistent with § 15–103(b)(18) of the Health – General Article;

- 1 (ii) increase fee-for-service health care provider rates;
- 2 (iii) pay managed care organization health care providers
3 consistent with the fee-for-service health provider rates; and
- 4 (iv) after fiscal year 2008:
- 5 1. maintain increased capitation payments to managed
6 care organizations;
- 7 2. maintain increased rates for health care providers;
- 8 3. in accordance with § 6-121(b)(3) of this article,
9 support the provision of office-based specialty care, diagnostic testing, and laboratory
10 tests for individuals with family income that does not exceed 200% of the federal
11 poverty level; and
- 12 4. support generally the operations of the Maryland
13 Medical Assistance Program.

14 (c) (1) Health care provider rate increases under subsection (b)(2) and
15 (3)(ii), (iii), and (iv)2 of this section shall be determined by the Secretary in
16 consultation with managed care organizations, the Maryland Hospital Association, the
17 Maryland State Medical Society, the American Academy of Pediatrics, Maryland
18 Chapter, and the American College of Emergency Room Physicians, Maryland
19 Chapter.

20 (2) The Secretary shall submit the plan for Medicaid health care
21 provider rate increases under paragraph (1) of this subsection to the Senate Budget
22 and Taxation Committee, Senate Finance Committee, House Appropriations
23 Committee, and House Health and Government Operations Committee prior to
24 adopting the regulations implementing the increase.

25 **(D) (1) PORTIONS OF THE MEDICAL ASSISTANCE PROGRAM**
26 **ACCOUNT THAT EXCEED THE AMOUNT PROVIDED UNDER SUBSECTION (B)(2) OF**
27 **THIS SECTION SHALL BE USED TO PAY MEDICALLY NECESSARY AND OTHER**
28 **RELATED EXPENSES OF INDIVIDUALS WITH BIRTH-RELATED NEUROLOGICAL**
29 **IMPAIRMENTS.**

30 **(2) DISBURSEMENTS FROM THE MEDICAL ASSISTANCE**
31 **PROGRAM ACCOUNT SHALL BE MADE TO THE NO-FAULT CEREBRAL PALSY**

1 **INSURANCE FUND ESTABLISHED UNDER SUBTITLE 9 OF THIS TITLE IN AN**
2 **AMOUNT SUFFICIENT TO PAY ITS CLAIMS AND ADMINISTRATIVE COSTS.**

3 **SUBTITLE 9. NO-FAULT CEREBRAL PALSY INSURANCE FUND.**

4 **19-901.**

5 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 **(B) (1) "BIRTH-RELATED NEUROLOGICAL IMPAIRMENT" OR**
8 **"CEREBRAL PALSY" MEANS AN IMPAIRMENT OF THE BRAIN, SPINAL CORD, OR**
9 **NERVE OF AN INFANT THAT:**

10 **(I) OCCURRED OR COULD HAVE OCCURRED DURING**
11 **PREGNANCY, BEFORE OR DURING A DELIVERY, OR IN THE IMMEDIATE**
12 **RESUSCITATIVE PERIOD AFTER A DELIVERY; AND**

13 **(II) RESULTS IN A SIGNIFICANT AND NONPROGRESSIVE**
14 **INABILITY TO CONTROL MOTOR FUNCTION.**

15 **(2) A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT OR**
16 **CEREBRAL PALSY MAY BE ACCOMPANIED BY ONE OR MORE ASSOCIATED**
17 **SYMPTOMS INCLUDING:**

18 **(I) VISION, SPEECH, HEARING, OR LEARNING**
19 **DIFFICULTIES;**

20 **(II) SEIZURES; OR**

21 **(III) BEHAVIORAL AND PSYCHOLOGICAL PROBLEMS.**

22 **(3) "BIRTH-RELATED NEUROLOGICAL IMPAIRMENT" OR**
23 **"CEREBRAL PALSY" DOES NOT INCLUDE DISABILITY CAUSED BY GENETIC OR**
24 **CONGENITAL ABNORMALITY.**

25 **(C) "CLAIMANT" MEANS AN INFANT BORN IN THE STATE WHO HAS BEEN**
26 **DIAGNOSED AS HAVING CEREBRAL PALSY OR A BIRTH-RELATED**
27 **NEUROLOGICAL IMPAIRMENT.**

1 (D) **“DIRECTOR” MEANS THE DIRECTOR OF THE FUND.**

2 (E) **“FUND” MEANS THE NO–FAULT CEREBRAL PALSY INSURANCE**
3 **FUND.**

4 (F) **“HEALTH CARE FACILITY” HAS THE MEANING STATED IN § 19–114**
5 **OF THE HEALTH – GENERAL ARTICLE.**

6 (G) **“HEALTH CARE PROVIDER” MEANS AN INDIVIDUAL WHO IS**
7 **LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH**
8 **OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.**

9 (H) (1) **“PHYSICIAN” MEANS AN INDIVIDUAL LICENSED TO PRACTICE**
10 **MEDICINE IN THE STATE.**

11 (2) **“PHYSICIAN” INCLUDES AN INDIVIDUAL WHO LEGALLY**
12 **PRACTICES MEDICINE WITHOUT A LICENSE UNDER § 14–302(1), (2), (3), OR (4)**
13 **OF THE HEALTH OCCUPATIONS ARTICLE.**

14 **19–902.**

15 (A) **THERE IS A NO–FAULT CEREBRAL PALSY INSURANCE FUND.**

16 (B) **THE PURPOSE OF THE FUND IS TO PAY TO CLAIMANTS WHO ARE**
17 **DIAGNOSED AS HAVING A BIRTH–RELATED NEUROLOGICAL IMPAIRMENT THE**
18 **MEDICALLY NECESSARY AND REASONABLE EXPENSES OF MEDICAL, HOSPITAL,**
19 **REHABILITATIVE, RESIDENTIAL, AND CUSTODIAL CARE AND SERVICE, SPECIAL**
20 **EQUIPMENT OR FACILITIES, AND RELATED TRAVEL NECESSITATED BY THE**
21 **BIRTH–RELATED NEUROLOGICAL IMPAIRMENT AND ASSOCIATED DISABILITIES.**

22 (C) **THE DIRECTOR SHALL ADMINISTER THE FUND.**

23 (D) (1) **THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
24 **SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

25 (2) **THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND**
26 **THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

1 **(3) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN**
2 **THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

3 **(E) THE FUND CONSISTS OF:**

4 **(1) REVENUE DISTRIBUTED TO THE FUND FROM THE MEDICAL**
5 **ASSISTANCE PROGRAM ACCOUNT OF THE MARYLAND HEALTH CARE**
6 **PROVIDER RATE STABILIZATION FUND ESTABLISHED UNDER § 19-802 OF THIS**
7 **TITLE;**

8 **(2) INTEREST OR OTHER INCOME EARNED ON THE MONEYS IN**
9 **THE FUND; AND**

10 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
11 **THE BENEFIT OF THE FUND.**

12 **(F) THE FUND MAY BE USED ONLY TO PAY:**

13 **(1) CLAIMS UNDER THIS SUBTITLE; AND**

14 **(2) THE COSTS OF ADMINISTERING THE FUND.**

15 **19-903.**

16 **(A) THE COMMISSIONER SHALL APPOINT THE DIRECTOR OF THE FUND.**

17 **(B) THE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSIONER.**

18 **(C) THE COMMISSIONER MAY ADOPT REASONABLE REGULATIONS TO**
19 **CARRY OUT THIS SUBTITLE.**

20 **19-904.**

21 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE RIGHTS**
22 **AND REMEDIES GRANTED UNDER THIS SUBTITLE TO A CLAIMANT WHO IS**
23 **DIAGNOSED AS HAVING A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT**
24 **EXCLUDE ALL OTHER RIGHTS AND REMEDIES OF ANY PERSON FOR**
25 **BIRTH-RELATED NEUROLOGICAL INJURIES AGAINST A HEALTH CARE PROVIDER**
26 **OR HEALTH CARE FACILITY REGARDLESS OF THE CAUSE OF INJURY.**

1 **(B) A CLAIMANT OR A CLAIMANT'S LEGAL REPRESENTATIVE IS NOT**
2 **PRECLUDED FROM FILING A CIVIL ACTION AGAINST A HEALTH CARE PROVIDER**
3 **OR HEALTH CARE FACILITY FOR A BIRTH-RELATED NEUROLOGICAL**
4 **IMPAIRMENT IF THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE**
5 **HEALTH CARE PROVIDER OR HEALTH CARE FACILITY DELIBERATELY CAUSED**
6 **THE BIRTH-RELATED NEUROLOGICAL IMPAIRMENT.**

7 **19-905.**

8 **(A) A CLAIM FOR COVERAGE FROM THE FUND UNDER THIS SUBTITLE**
9 **MAY BE FILED BY:**

10 **(1) A CLAIMANT; OR**

11 **(2) THE LEGAL REPRESENTATIVE OF A CLAIMANT.**

12 **(B) IF AN INITIAL CLAIM FOR COVERAGE IS NOT FILED BEFORE THE**
13 **CLAIMANT'S THIRD BIRTHDAY, COMPENSATION FROM THE FUND SHALL BE**
14 **LIMITED TO EXPENSES INCURRED ON OR AFTER THE DATE OF FILING.**

15 **(C) THE DIRECTOR MAY REQUIRE:**

16 **(1) ANY PERSON WITH INFORMATION ABOUT THE CLAIM TO**
17 **PROVIDE THE INFORMATION THE DIRECTOR CONSIDERS NECESSARY FOR THE**
18 **EVALUATION OF THE CLAIM; AND**

19 **(2) THE CLAIMANT TO SUBMIT TO EXAMINATION OR TESTING.**

20 **(D) (1) AS SOON AS PRACTICABLE AFTER THE FILING OF A CLAIM FOR**
21 **COVERAGE, THE DIRECTOR SHALL EVALUATE THE CLAIM AND DETERMINE**
22 **WHETHER OR NOT THE CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL**
23 **IMPAIRMENT.**

24 **(2) IF THE DIRECTOR IS UNABLE TO DETERMINE WHETHER OR**
25 **NOT THE CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT, THE**
26 **DIRECTOR SHALL ISSUE A DETERMINATION THAT THE DIAGNOSIS IS**
27 **PRESENTLY UNCERTAIN.**

1 **(3) A CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE**
2 **MAY:**

3 **(I) APPEAL A DETERMINATION OF UNCERTAINTY UNDER**
4 **THIS SUBSECTION TO AN ARBITRATION PANEL UNDER § 19-906 OF THIS**
5 **SUBTITLE; OR**

6 **(II) RESUBMIT THE CLAIM TO THE FUND AT LEAST 1 YEAR**
7 **BUT NOT MORE THAN 3 YEARS AFTER THE DETERMINATION OF UNCERTAINTY.**

8 **(E) THE DIRECTOR PROMPTLY SHALL NOTIFY THE CLAIMANT OR THE**
9 **CLAIMANT'S LEGAL REPRESENTATIVE OF THE DIRECTOR'S DETERMINATION**
10 **UNDER THIS SECTION.**

11 **19-906.**

12 **(A) (1) IF A CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE**
13 **DISAGREES WITH THE DETERMINATION UNDER § 19-905(D) OF THIS SUBTITLE,**
14 **THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY FILE AN**
15 **APPEAL WITH THE FUND.**

16 **(2) AN APPEAL UNDER THIS SECTION SHALL BE FILED WITHIN 60**
17 **DAYS AFTER RECEIPT OF NOTIFICATION UNDER § 19-905(E) OF THIS SUBTITLE.**

18 **(B) (1) IF AN APPEAL IS TIMELY FILED, THE DIRECTOR SHALL**
19 **APPOINT AN ARBITRATION PANEL OF THREE PHYSICIANS WHO ARE BOARD**
20 **CERTIFIED IN NEUROLOGY OR PEDIATRICS TO REVIEW THE DETERMINATION.**

21 **(2) THE PANEL CONSISTS OF:**

22 **(I) ONE PHYSICIAN CHOSEN BY THE CLAIMANT OR THE**
23 **CLAIMANT'S REPRESENTATIVE;**

24 **(II) ONE PHYSICIAN CHOSEN BY THE DIRECTOR; AND**

25 **(III) ONE PHYSICIAN AGREED ON BY THE PHYSICIANS**
26 **CHOSEN UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH.**

1 (C) **THE CLAIMANT OR THE CLAIMANT’S LEGAL REPRESENTATIVE AND**
2 **THE DIRECTOR MAY AGREE ON A SINGLE ARBITRATOR AS AN ALTERNATIVE TO**
3 **THE PANEL DESCRIBED IN SUBSECTION (B) OF THIS SECTION.**

4 **19-907.**

5 (A) **ON ARBITRATION PANELS CONSISTING OF THREE PHYSICIANS, THE**
6 **PHYSICIAN AGREED ON BY THE OTHER TWO PHYSICIANS SHALL SERVE AS CHAIR**
7 **OF THE PANEL.**

8 (B) **A VOTE OF THE MAJORITY OF THE PANEL SHALL BE BINDING ON**
9 **THE PANEL.**

10 (C) **THE PANEL MAY REQUIRE:**

11 (1) **ANY PERSON WITH INFORMATION ABOUT THE CLAIM TO**
12 **PROVIDE THE INFORMATION THE PANEL CONSIDERS NECESSARY FOR THE**
13 **EVALUATION OF THE CLAIM; AND**

14 (2) **THE CLAIMANT TO SUBMIT TO EXAMINATION OR TESTING.**

15 (D) (1) **THE DETERMINATION OF THE PANEL AS TO WHETHER OR NOT**
16 **THE CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT IS FINAL**
17 **AND BINDING ON THE FUND.**

18 (2) **IF THE PANEL IS UNABLE TO DETERMINE WHETHER OR NOT**
19 **THE CLAIMANT HAS A BIRTH-RELATED NEUROLOGICAL IMPAIRMENT, THE**
20 **PANEL SHALL ISSUE A DETERMINATION THAT THE DIAGNOSIS IS PRESENTLY**
21 **UNCERTAIN.**

22 (3) **A DETERMINATION OF UNCERTAINTY UNDER THIS**
23 **SUBSECTION MAY BE RESUBMITTED TO THE FUND AT LEAST 1 YEAR BUT NOT**
24 **MORE THAN 3 YEARS AFTER THE DETERMINATION OF UNCERTAINTY.**

25 (E) **THE PANEL PROMPTLY SHALL NOTIFY THE CLAIMANT OR THE**
26 **CLAIMANT’S LEGAL REPRESENTATIVE OF THE PANEL’S DETERMINATION UNDER**
27 **THIS SECTION.**

1 **(F) (1) THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE**
2 **MAY APPEAL THE PANEL'S DETERMINATION TO THE CIRCUIT COURT FOR THE**
3 **COUNTY WHERE THE CLAIMANT WAS BORN.**

4 **(2) AN APPEAL UNDER THIS SUBSECTION SHALL BE FILED**
5 **WITHIN 30 DAYS AFTER RECEIPT OF NOTIFICATION UNDER SUBSECTION (E) OF**
6 **THIS SECTION.**

7 **(G) THE FUND SHALL PAY THE MEMBERS OF THE PANEL A FEE**
8 **ESTABLISHED BY THE DIRECTOR.**

9 **(H) IF THE PANEL DETERMINES THAT THE APPEAL OF THE ORIGINAL**
10 **DETERMINATION WAS FRIVOLOUS, THE PANEL MAY ASSESS ITS FEES AND COSTS**
11 **AGAINST THE PARTY THAT FILED THE APPEAL.**

12 **19-908.**

13 **(A) FOLLOWING A FINAL DETERMINATION THAT THE CLAIMANT HAS A**
14 **BIRTH-RELATED NEUROLOGICAL IMPAIRMENT AND IS COVERED BY THIS**
15 **SUBTITLE, THE CLAIMANT OR THE CLAIMANT'S LEGAL REPRESENTATIVE MAY**
16 **SUBMIT CLAIMS FOR PAYMENT TO THE FUND.**

17 **(B) EXCEPT AS LIMITED BY THIS SECTION, THE FUND SHALL PAY ALL**
18 **MEDICALLY NECESSARY AND REASONABLE EXPENSES OF MEDICAL, HOSPITAL,**
19 **REHABILITATIVE, RESIDENTIAL, AND CUSTODIAL CARE AND SERVICE, SPECIAL**
20 **EQUIPMENT OR FACILITIES, AND RELATED TRAVEL NECESSITATED BY THE**
21 **BIRTH-RELATED NEUROLOGICAL IMPAIRMENT AND ASSOCIATED DISABILITIES.**

22 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, PAYMENTS BY THE FUND:**

24 **(I) MAY NOT EXCEED \$30,000 EACH YEAR FOR ANY**
25 **CLAIMANT; AND**

26 **(II) MAY BE MADE ONLY FOR EXPENSES INCURRED BEFORE**
27 **THE CLAIMANT ATTAINS THE AGE OF 21 YEARS OLD.**

1 **(2) AT THE BEGINNING OF EACH FISCAL YEAR THE DIRECTOR**
2 **SHALL ADJUST THE \$30,000 LIMIT ON ANNUAL PAYMENTS TO TAKE INTO**
3 **ACCOUNT INCREASES IN THE COST OF MEDICAL CARE.**

4 **(D) PAYMENTS MADE BY THE FUND MAY NOT INCLUDE EXPENSES FOR**
5 **ITEMS THE CLAIMANT HAS RECEIVED OR IS ENTITLED TO RECEIVE:**

6 **(1) UNDER OTHER STATE OR FEDERAL LAW; OR**

7 **(2) FROM ANY HEALTH INSURANCE POLICY, NONPROFIT HEALTH**
8 **SERVICE PLAN, HEALTH MAINTENANCE ORGANIZATION, OR OTHER PRIVATE**
9 **INSURER.**

10 **19-909.**

11 **A PERSON MAY NOT CHARGE OR COLLECT COMPENSATION FOR LEGAL**
12 **SERVICES IN CONNECTION WITH ANY CLAIMS ARISING UNDER THIS SUBTITLE**
13 **UNLESS THE COMPENSATION IS APPROVED BY THE DIRECTOR.**

14 **19-910.**

15 **THE DIRECTOR SHALL REPORT ALL CLAIMS UNDER THIS SUBTITLE TO**
16 **THE STATE BOARD OF PHYSICIANS FOR REVIEW TO DETERMINE WHETHER**
17 **THERE ARE GROUNDS FOR DISCIPLINARY ACTION FOR FAILING TO MEET**
18 **APPROPRIATE STANDARDS FOR DELIVERY OF QUALITY MEDICAL CARE.**

19 **19-911.**

20 **AN INSURER THAT PROVIDES MEDICAL PROFESSIONAL LIABILITY**
21 **INSURANCE TO HEALTH CARE PROVIDERS IN THE STATE SHALL:**

22 **(1) IDENTIFY IN ITS RATE FILING ANY SAVINGS THAT RESULT**
23 **FROM THIS SUBTITLE; AND**

24 **(2) DECREASE THE INSURANCE RATES CHARGED TO HEALTH**
25 **CARE PROVIDERS TO REFLECT THAT SAVINGS.**

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be**
27 **construed to apply only prospectively and may not be applied or interpreted to have**
28 **any effect on or application to any individual born before the effective date of this Act.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2007.