

CHAPTER 7

(Senate Bill 6)

AN ACT concerning

Working Families and Small Business Health Coverage Act

FOR the purpose of establishing a Small Employer Health ~~Insurance~~ Benefit Plan Premium Subsidy Program; establishing the purposes, administration, eligibility and other requirements, and funding for the Program; requiring the Maryland Health Care Commission to adopt regulations to establish certain eligibility requirements and certain levels of subsidies under the Program; authorizing the Maryland Health Care Commission to alter certain subsidy amounts; requiring the total amount of certain subsidies to be subject to the limitations of the State budget; providing that certain contributions to health savings accounts shall be considered additional premium contributions for the purpose of calculating certain subsidies under certain circumstances; requiring the Commission to report to the Governor and the General Assembly on the implementation of the Program; requiring the Maryland Medical Assistance Program to provide, subject to certain conditions, certain health care services to certain parents with certain income and to certain adults with certain income; repealing certain provisions of law relating to the Primary Adult Care Program; establishing a Health Care Coverage Fund; establishing the sources and uses of the Fund; requiring the Treasurer to invest the money in the Fund in a certain manner; providing that any investment earnings of the Fund shall be retained to the credit of the Fund; requiring expenditures from the Fund to be made only in accordance with the State budget; providing that the Fund is subject to audit by the Office of Legislative Audits; authorizing the State Health Services Cost Review Commission to assess a certain amount in hospital rates; requiring the Commission to determine certain savings in a certain manner; requiring each hospital to remit a certain assessment to the Health Care Coverage Fund; requiring certain carriers to offer a certain benefit; permitting certain carriers to offer a certain benefit; prohibiting a carrier from conditioning the sale of a certain benefit on participation of certain employees in certain programs or activities; requiring a licensed insurance producer to provide certain information to small employers; requiring the Maryland Health Care Commission, on or before a certain date, in consultation with the Department of Health and Mental Hygiene, to propose certain regulations; requiring the Maryland Health Care Commission to adopt certain regulations that specify the requirements of a certain benefit; requiring the Maryland Health Care Commission to comply with certain provisions of law in carrying out its duties; ~~providing~~ declaring the intent of the General Assembly regarding the level of certain benefits; ~~providing~~ declaring the intent of the General Assembly regarding the phasing-in of certain health care services, to the extent that

certain revenues as submitted with the Governor's proposed budget exceed certain amounts; requiring the Department of Health and Mental Hygiene to submit an amendment to a certain waiver; requiring the Department of Health and Mental Hygiene to forward a copy of a certain notice to the Department of Legislative Services; requiring a certain individual to be automatically enrolled in a certain managed care organization, under certain circumstances; requiring certain individuals to be assigned to a certain managed care organization; authorizing certain funds to be appropriated and transferred by approved budget amendment; requiring the State Health Services Cost Review Commission and the Department of Health and Mental Hygiene to develop a mechanism to calculate the amount of certain hospital uncompensated care; providing for the termination of a certain hospital rate assessment under certain circumstances; requiring the State to ensure that a certain transfer of funds and a certain hospital rate assessment are consistent with the State's Medicare waiver and federal regulations; declaring the intent of the General Assembly to increase access to certain services; providing for the effective date of certain provisions of this Act; making certain provisions of this Act null and void, under certain circumstances; providing for the termination of certain provisions of this Act; defining certain terms; making this Act an emergency measure; and generally relating to the Working Families and Small Business Health Coverage Act.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–1201(a) ~~and (d)~~, (d), and (e)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Insurance

Section 15–1201(s), 15–1204(g), and 15–1206(g); and 15–12A–01 through 15–12A–05 to be under the new subtitle “Subtitle 12A. Small Employer Health ~~Insurance~~ Benefit Plan Premium Subsidy Program”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1207(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 15–103(a) and 19–108

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article – Health – General
Section 15–103(b)(23)(vii) and 15–140
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General
Section 15–701 to be under the new subtitle “Subtitle 7. Health Care Coverage
Fund”; and 19–214(d)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General
Section 19–101
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 19–108
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 287 of the Acts of the General Assembly of 2004)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 15–1207(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 287 of the Acts of the General Assembly of 2004)

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

Article – Insurance

**SUBTITLE 12A. SMALL EMPLOYER HEALTH ~~INSURANCE~~ BENEFIT PLAN
PREMIUM SUBSIDY PROGRAM.**

15–12A–01.

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

(B) "COMMISSION" MEANS THE MARYLAND HEALTH CARE COMMISSION.

(C) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(D) "ELIGIBLE EMPLOYEE" HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE.

(E) "HEALTH SAVINGS ACCOUNT" MEANS A HEALTH SAVINGS ACCOUNT AS DEFINED IN THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003, TITLE 12, § 1201(A) AS CODIFIED AT PART VII, SUBCHAPTER B, CHAPTER 1, § 223(D) OF THE INTERNAL REVENUE CODE.

~~(D)~~ (F) "PROGRAM" MEANS THE SMALL EMPLOYER HEALTH INSURANCE BENEFIT PLAN PREMIUM SUBSIDY PROGRAM.

~~(E)~~ (G) "SMALL EMPLOYER" HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE.

(H) "SMALL EMPLOYER HEALTH BENEFIT PLAN" MEANS A HEALTH BENEFIT PLAN AS DEFINED IN § 15-1201 OF THIS TITLE THAT MAY BE SOLD TO A SMALL EMPLOYER UNDER SUBTITLE 12 OF THIS TITLE.

(I) "WELLNESS BENEFIT" HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE.

15-12A-02.

(A) THERE IS A SMALL EMPLOYER HEALTH ~~INSURANCE~~ BENEFIT PLAN PREMIUM SUBSIDY PROGRAM.

(B) THE PURPOSES OF THE PROGRAM ARE TO:

(1) PROVIDE AN INCENTIVE FOR SMALL EMPLOYERS TO OFFER AND MAINTAIN ~~HEALTH INSURANCE~~ A SMALL EMPLOYER HEALTH BENEFIT PLAN FOR THEIR EMPLOYEES;

(2) HELP LOW AND MODERATE INCOME EMPLOYEES OF SMALL EMPLOYERS AFFORD ~~HEALTH INSURANCE PREMIUM CONTRIBUTIONS~~ SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUMS;

(3) PROMOTE ACCESS TO HEALTH CARE SERVICES, PARTICULARLY PREVENTIVE HEALTH CARE SERVICES THAT MIGHT REDUCE THE NEED FOR EMERGENCY ROOM CARE AND OTHER ACUTE CARE SERVICES; AND

(4) REDUCE UNCOMPENSATED CARE IN HOSPITALS AND OTHER HEALTH CARE SETTINGS.

(C) THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, SHALL ADMINISTER THE PROGRAM.

(D) THE PROGRAM SHALL CONSIST OF:

~~(1)~~ SUBSIDIES, AS PROVIDED UNDER § 15-12A-03 OF THIS SUBTITLE, FOR:

~~(I) (1) SMALL EMPLOYERS THAT HAVE NOT PREVIOUSLY OFFERED HEALTH INSURANCE A SMALL EMPLOYER HEALTH BENEFIT PLAN TO THEIR EMPLOYEES; AND~~

~~(II) (2) EMPLOYEES OF SMALL EMPLOYERS THAT HAVE NOT PREVIOUSLY OFFERED HEALTH INSURANCE A SMALL EMPLOYER HEALTH BENEFIT PLAN TO THEIR EMPLOYEES; AND~~

~~(2) SUBSIDIES, AS PROVIDED UNDER § 15-12A-04 OF THIS SUBTITLE, FOR SMALL EMPLOYERS THAT ARE OFFERING HEALTH INSURANCE TO THEIR EMPLOYEES.~~

(E) FUNDING FOR THE PROGRAM MAY BE PROVIDED FROM:

(1) GENERAL FUNDS; OR

(2) THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER TITLE 15, SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE.

~~(F) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FUNDS PROVIDED IN THE STATE BUDGET FOR THE PURPOSES OF THIS SUBSECTION BE ALLOCATED AS FOLLOWS:~~

~~(1) APPROXIMATELY TWO THIRDS OF THE FUNDS FOR THE SUBSIDIES AUTHORIZED UNDER § 15-12A-03 OF THIS SUBTITLE; AND~~

~~(2) APPROXIMATELY ONE THIRD OF THE FUNDS FOR THE SUBSIDIES AUTHORIZED UNDER § 15-12A-04 OF THIS SUBTITLE.~~

(F) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH:

(1) THE ELIGIBILITY REQUIREMENTS FOR SMALL EMPLOYERS UNDER THE PROGRAM; AND

(2) THE LEVEL OF SUBSIDIES TO BE PROVIDED UNDER THE PROGRAM.

15-12A-03.

(A) A SMALL EMPLOYER AND THE EMPLOYEES OF THE SMALL EMPLOYER SHALL BE ELIGIBLE FOR A SUBSIDY OF ~~HEALTH INSURANCE~~ SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUMS IF THE SMALL EMPLOYER:

(1) AT THE TIME OF INITIAL APPLICATION FOR THE SUBSIDY:

(I) HAS NOT OFFERED ~~HEALTH INSURANCE~~ A SMALL EMPLOYER HEALTH BENEFIT PLAN TO ITS EMPLOYEES FOR AT LEAST 12 CONSECUTIVE MONTHS;

(II) HAS AT LEAST TWO BUT NOT MORE THAN NINE ~~FULL-TIME~~ ELIGIBLE EMPLOYEES; AND

(III) MEETS SALARY AND WAGE REQUIREMENTS ESTABLISHED BY THE COMMISSION;

(2) OFFERS A SMALL EMPLOYER HEALTH BENEFIT PLAN TO ITS EMPLOYEES;

~~(2)~~ **(3) ESTABLISHES A PAYROLL DEDUCTION PLAN THAT SATISFIES UNDER § 125 OF THE INTERNAL REVENUE CODE;**

~~(3)~~ **(4) AGREES TO OFFER A ~~BONA FIDE WELLNESS PROGRAM~~ WELLNESS BENEFIT, AS REQUIRED BY THE COMMISSION; AND**

~~(4)~~ **(5) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY THE COMMISSION.**

(B) ~~A SUBSIDY OF HEALTH INSURANCE PREMIUM CONTRIBUTIONS MADE BY A SMALL EMPLOYER;~~ PROVIDED TO A SMALL EMPLOYER UNDER THE PROGRAM;

(1) SHALL OFFSET A PORTION OF THE SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUM CONTRIBUTIONS MADE BY A SMALL EMPLOYER;

~~(1)~~ **(2)** MAY NOT EXCEED THE LOWER OF:

- (I) 50% OF THE SMALL EMPLOYER CONTRIBUTION; OR**
- (II) AN AMOUNT ESTABLISHED BY THE COMMISSION; AND**

~~(2)~~ **(3)** MAY BE CALCULATED ON A SLIDING SCALE.

(C) A SUBSIDY ~~OF HEALTH INSURANCE PREMIUM CONTRIBUTIONS MADE BY AN EMPLOYEE OF A SMALL EMPLOYER;~~ PROVIDED TO AN EMPLOYEE OF A SMALL EMPLOYER UNDER THE PROGRAM;

(1) SHALL OFFSET A PORTION OF THE SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUM CONTRIBUTIONS MADE BY AN EMPLOYEE;

~~(1)~~ **(2)** MAY NOT EXCEED THE LOWER OF:

- (I) 50% OF THE EMPLOYEE CONTRIBUTION; OR**
- (II) AN AMOUNT ESTABLISHED BY THE COMMISSION; AND**

~~(2)~~ **(3)** MAY BE CALCULATED ON A SLIDING SCALE.

(D) THE COMMISSION MAY ALTER THE SUBSIDY AMOUNTS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION ACCORDING TO THE NUMBER OF EMPLOYEES OF THE SMALL EMPLOYER.

(E) THE TOTAL AMOUNT OF ALL SUBSIDIES PROVIDED UNDER THIS SECTION SHALL BE SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET.

~~15-12A-04.~~

(A) A SMALL EMPLOYER SHALL BE ELIGIBLE FOR A SUBSIDY OF HEALTH INSURANCE PREMIUMS IF THE SMALL EMPLOYER;

~~(1)~~ **AT THE TIME OF INITIAL APPLICATION FOR THE SUBSIDY;**

~~(1)~~ **IS CURRENTLY OFFERING HEALTH INSURANCE TO ITS EMPLOYEES;**

~~(II) HAS AT LEAST TWO BUT NOT MORE THAN NINE FULL-TIME EMPLOYEES, AS DETERMINED BY THE COMMISSION IN REGULATION; AND~~

~~(III) MEETS SALARY AND WAGE REQUIREMENTS ESTABLISHED BY THE COMMISSION;~~

~~(2) ESTABLISHES A PAYROLL DEDUCTION PLAN THAT SATISFIES § 125 OF THE INTERNAL REVENUE CODE;~~

~~(3) AGREES TO OFFER A BONA FIDE WELLNESS PROGRAM, AS REQUIRED BY THE COMMISSION; AND~~

~~(4) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY THE COMMISSION.~~

~~(B) A SUBSIDY OF HEALTH INSURANCE PREMIUM CONTRIBUTIONS MADE BY A SMALL EMPLOYER:~~

~~(1) MAY NOT EXCEED THE LOWER OF:~~

~~(I) 50% OF THE SMALL EMPLOYER CONTRIBUTION; OR~~

~~(II) AN AMOUNT ESTABLISHED BY THE COMMISSION; AND~~

~~(2) MAY BE CALCULATED ON A SLIDING SCALE.~~

~~(C) THE COMMISSION MAY ALTER THE SUBSIDY AMOUNT PROVIDED UNDER SUBSECTION (B) OF THIS SECTION ACCORDING TO THE NUMBER OF EMPLOYEES OF THE SMALL EMPLOYER.~~

~~(D) THE TOTAL AMOUNT OF ALL SUBSIDIES PROVIDED UNDER THIS SECTION SHALL BE SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET.~~

15-12A-04.

(A) A SMALL EMPLOYER THAT PROVIDES A SMALL EMPLOYER HEALTH BENEFIT PLAN THAT IS COMPATIBLE WITH A HEALTH SAVINGS ACCOUNT MAY BE ELIGIBLE FOR A SUBSIDY UNDER THE PROGRAM IF:

(1) THE HEALTH BENEFIT PLAN IS OFFERED WITH A WELLNESS BENEFIT; AND

(2) THE SMALL EMPLOYER MEETS THE ELIGIBILITY REQUIREMENTS UNDER § 15-12A-03 OF THIS SUBTITLE.

(B) FOR THE PURPOSE OF CALCULATING THE SUBSIDY FOR A SMALL EMPLOYER UNDER § 15-12A-03 OF THIS SUBTITLE, THE COMMISSION SHALL CONSIDER AMOUNTS CONTRIBUTED TO THE HEALTH SAVINGS ACCOUNT BY A SMALL EMPLOYER THAT IS ELIGIBLE FOR A SUBSIDY AS ADDITIONAL PREMIUM CONTRIBUTIONS.

(C) FOR THE PURPOSE OF CALCULATING THE SUBSIDY FOR AN EMPLOYEE OF A SMALL EMPLOYER UNDER § 15-12A-03 OF THIS SUBTITLE, THE COMMISSION SHALL CONSIDER AMOUNTS CONTRIBUTED TO THE HEALTH SAVINGS ACCOUNT BY AN EMPLOYEE OF A SMALL EMPLOYER THAT IS ELIGIBLE FOR A SUBSIDY AS ADDITIONAL PREMIUM CONTRIBUTIONS.

15-12A-05.

ON OR BEFORE JANUARY 1, 2009, AND ANNUALLY THEREAFTER, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE IMPLEMENTATION OF THE PROGRAM.

Article - Health - General

15-103.

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

(2) The Program:

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

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

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

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

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

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

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

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

(IX) BEGINNING ON JULY 1, 2008, SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, AND AS PERMITTED BY FEDERAL LAW, COMPREHENSIVE MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR ALL PARENTS AND CARETAKER RELATIVES:

1. WHO HAVE A DEPENDENT CHILD LIVING IN THE PARENTS' OR CARETAKER RELATIVES' HOME; AND

2. WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 116 PERCENT OF THE POVERTY LEVEL;

(X) BEGINNING ON JULY 1, 2008, SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, AND AS PERMITTED BY FEDERAL LAW, MEDICAL CARE AND OTHER HEALTH CARE SERVICES FOR ADULTS:

1. WHO DO NOT MEET REQUIREMENTS, SUCH AS AGE, DISABILITY, OR PARENT OR CARETAKER RELATIVE OF A DEPENDENT CHILD, FOR A FEDERAL CATEGORY OF ELIGIBILITY FOR MEDICAID;

2. WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 116 PERCENT OF THE POVERTY LEVEL; AND

3. WHO ARE NOT ENROLLED IN THE FEDERAL MEDICARE PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT;

[(ix)] **(XI)** May include bedside nursing care for eligible Program recipients; and

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

(3) Subject to restrictions in federal law or waivers, the Department may:

(I) [impose] **IMPOSE** cost-sharing on Program recipients; **AND**

(II) FOR ADULTS WHO DO NOT MEET REQUIREMENTS FOR A FEDERAL CATEGORY OF ELIGIBILITY FOR MEDICAID:

1. CAP ENROLLMENT; AND

2. LIMIT THE BENEFIT PACKAGE.

(b) (23) [(vii) An individual who was enrolled in the Primary Adult Care Program established under § 15–140 of this subtitle within 120 days of becoming eligible for the HealthChoice Program shall be enrolled automatically in the same managed care organization in which the individual was enrolled under the Primary Adult Care Program, if the managed care organization is participating in the HealthChoice Program.]

[15–140.

(a) In this section, “Program” means the Primary Adult Care Program.

(b) (1) There is a Primary Adult Care Program within the Program.

(2) The purpose of the Primary Adult Care Program is to:

(i) Consolidate health care services provided to adults through the Program; and

(ii) Access federal funding to expand primary and preventive care to adults lacking health care services.

(3) The Secretary shall administer the Program as allowed by federal law or waiver.

(c) Subject to the limitations of the State budget and as allowed by federal law or waiver, the Program shall provide a health care benefit package offering primary and preventive care for adults.

(d) The Program shall be funded:

(1) As provided in the State budget; and

(2) With federal matching money.

(e) The Secretary shall adopt regulations:

(1) To implement the Program; and

(2) That establish a process through which historic HealthChoice Program enrollees who become eligible for the Primary Adult Care Program within 120 days of losing HealthChoice eligibility will be enrolled automatically with the same managed care organization in which the individual was enrolled under the HealthChoice Program, if the managed care organization is participating in the Primary Adult Care Program.]

SUBTITLE 7. HEALTH CARE COVERAGE FUND.

15-701.

(A) IN THIS SUBTITLE, "FUND" MEANS THE HEALTH CARE COVERAGE FUND.

(B) THERE IS A HEALTH CARE COVERAGE FUND.

(C) THE PURPOSE OF THE FUND IS TO:

(1) SUPPORT HEALTH CARE COVERAGE FOR INDIVIDUALS AND FAMILIES WITH LOW OR MODERATE INCOME; AND

(2) SUBJECT TO SUBSECTION (I) OF THIS SECTION, SUPPORT THE PROVISION OF HEALTH CARE SERVICES IN PRINCE GEORGE'S COUNTY.

(D) THE DEPARTMENT AND THE MARYLAND HEALTH CARE COMMISSION SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

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

(F) THE FUND CONSISTS OF:

(1) MONEYS TRANSFERRED FROM THE MARYLAND HEALTH INSURANCE PLAN FUND;

(2) MONEYS COLLECTED FROM ANY ASSESSMENT BY THE STATE HEALTH SERVICES COST REVIEW COMMISSION ON HOSPITALS UNDER § 19-214(D) OF THIS ARTICLE;

(3) ANY MONEYS MADE AVAILABLE FROM INVESTMENT EARNINGS; AND

(4) ANY OTHER MONEYS FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) (1) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

(H) THE FUND MAY BE USED ONLY FOR EXPENSES ASSOCIATED WITH:

(1) EXPANDING MEDICAID ELIGIBILITY FOR PARENTS AND CARETAKER RELATIVES:

**(I) WHO HAVE A DEPENDENT CHILD LIVING WITH THEM;
AND**

(II) WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 116% OF THE FEDERAL POVERTY GUIDELINES;

(2) EXPANDING MEDICAID ELIGIBILITY AND BENEFITS FOR INDIVIDUALS:

(I) WHO DO NOT MEET REQUIREMENTS, SUCH AS AGE, DISABILITY, OR PARENT OR CARETAKER RELATIVE OF A DEPENDENT CHILD, FOR A FEDERAL CATEGORY OF ELIGIBILITY FOR MEDICAID;

(II) WHOSE ANNUAL HOUSEHOLD INCOME IS AT OR BELOW 116% OF THE FEDERAL POVERTY GUIDELINES; AND

(III) WHO ARE NOT ENROLLED IN THE FEDERAL MEDICARE PROGRAM, AS ENACTED BY TITLE XVIII OF THE SOCIAL SECURITY ACT; ~~AND~~

(3) PROVIDING AND ADMINISTERING HEALTH ~~INSURANCE~~ BENEFIT PLAN PREMIUM SUBSIDIES UNDER TITLE 15, SUBTITLE 12A OF THE INSURANCE ARTICLE; AND

(4) SUPPORTING THE PROVISION OF HEALTH CARE SERVICES IN PRINCE GEORGE'S COUNTY IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION.

(1) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN FISCAL YEARS 2011 THROUGH 2013, UP TO \$10,000,000 MAY BE TRANSFERRED ANNUALLY FROM THE FUND TO THE DEPARTMENT FOR THE PURPOSE OF PROVIDING A SPECIAL FUND OPERATING GRANT TO AN INDEPENDENT ENTITY WITH AUTHORITY OVER THE FACILITIES CURRENTLY OPERATED AND HEALTH CARE SERVICES CURRENTLY PROVIDED BY DIMENSIONS HEALTHCARE SYSTEM UNTIL THE FACILITIES AND OBLIGATION TO PROVIDE THE SERVICES ARE TRANSFERRED TO A NEW OWNER OR OPERATOR.

(2) THE DEPARTMENT MAY NOT PROVIDE A SPECIAL FUND OPERATING GRANT UNTIL A LONG-TERM, COMPREHENSIVE SOLUTION TO THE CONTROL AND OPERATION OF THE FACILITIES AND PROVISION OF HEALTH CARE SERVICES CURRENTLY OPERATED AND PROVIDED BY DIMENSIONS HEALTHCARE SYSTEM IS REACHED THROUGH:

(I) AN ACT OF THE GENERAL ASSEMBLY; OR

(II) A MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE AND PRINCE GEORGE'S COUNTY.

(3) THE LONG-TERM, COMPREHENSIVE SOLUTION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL ADDRESS ISSUES RELATED TO

HEALTH CARE NEEDS IN PRINCE GEORGE'S COUNTY AND THE SURROUNDING REGION, INCLUDING:

(I) THE TRANSFER TO A NEW OWNER OR OPERATOR OF THE FACILITIES CURRENTLY OPERATED AND THE OBLIGATION TO PROVIDE THE HEALTH CARE SERVICES CURRENTLY PROVIDED BY DIMENSIONS HEALTHCARE SYSTEM;

(II) A PLAN FOR THE ASSETS CURRENTLY HELD BY PRINCE GEORGE'S COUNTY RELATED TO THE FACILITIES CURRENTLY OPERATED BY DIMENSIONS HEALTHCARE SYSTEM;

(III) A MECHANISM TO PROVIDE A STEADY REVENUE STREAM TO HELP SUPPORT ONGOING OPERATIONS OF THE FACILITIES CURRENTLY OPERATED BY DIMENSIONS HEALTHCARE SYSTEM AND TO RETIRE THE LONG-TERM BOND INDEBTEDNESS AND SATISFY THE UNFUNDED PENSION LIABILITY OF DIMENSIONS HEALTHCARE SYSTEM; AND

(IV) A MECHANISM TO ASSURE EQUITABLE AND SUSTAINABLE FUNDING FROM PRINCE GEORGE'S COUNTY AND THE STATE.

(4) MONEYS TRANSFERRED FROM THE MARYLAND HEALTH INSURANCE PLAN FUND OR COLLECTED FROM AN ASSESSMENT BY THE STATE HEALTH SERVICES COST REVIEW COMMISSION ON HOSPITALS MAY NOT BE USED FOR THE PURPOSE OF THIS SUBSECTION.

~~(J)~~ **(J) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.**

~~(J)~~ **(K) MONEY FROM THE FUND SHALL SUPPLEMENT AND MAY NOT SUPPLANT FUNDING FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM.**

~~(K)~~ **(L) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS.**

19-214.

(D) (1) ON OR AFTER JULY 1, 2009, IF THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 ~~(S.B. / H.B.) (SLR0262)~~ (S.B. 6/H.B. 6) OF THE ACTS OF THE GENERAL ASSEMBLY OF THE 2007 SPECIAL SESSION REDUCES HOSPITAL UNCOMPENSATED CARE, THE COMMISSION:

~~(I) MAY ASSESS AN AMOUNT IN HOSPITAL RATES EQUAL TO A PORTION OF THE RESULTING SAVINGS REALIZED IN HOSPITAL UNCOMPENSATED CARE; AND~~

~~(II) SHALL ADJUST RATES TO RETURN SAVINGS TO PAYORS.~~

~~(2) THE COMMISSION SHALL DETERMINE THE SAVINGS IN AVERTED UNCOMPENSATED CARE FOR EACH HOSPITAL INDIVIDUALLY.~~

(I) SHALL DETERMINE THE SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE FOR EACH HOSPITAL INDIVIDUALLY; AND

(II) MAY ASSESS AN AMOUNT IN EACH HOSPITAL'S RATES EQUAL TO A PORTION OF THE SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE FOR THAT HOSPITAL.

(2) THE COMMISSION SHALL ENSURE THAT ANY SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE NOT SUBJECT TO THE ASSESSMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION BE SHARED AMONG PURCHASERS OF HOSPITAL SERVICES IN A MANNER THAT THE COMMISSION DETERMINES IS MOST EQUITABLE.

(3) EACH HOSPITAL SHALL REMIT ANY ASSESSMENT UNDER THIS SUBSECTION TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER § 15-701 OF THIS ARTICLE.

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

Article – Insurance

15-1201.

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

(d) “Commission” means the Maryland Health Care Commission established under Title 19, Subtitle 1 of the Health – General Article.

(e) (1) “Eligible employee” means:

(i) an individual who:

1. is an employee, partner of a partnership, or independent contractor who is included as an employee under a health benefit plan; and

2. works on a full-time basis and has a normal workweek of at least 30 hours; or

(ii) a sole employee of a nonprofit organization that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code who:

1. has a normal workweek of at least 20 hours; and

2. is not covered under a public or private plan for health insurance or other health benefit arrangement.

(2) “Eligible employee” does not include an individual who works:

(i) on a temporary or substitute basis; or

(ii) except for an individual described in paragraph (1)(ii) of this subsection, for less than 30 hours in a normal workweek.

(S) “WELLNESS BENEFIT” MEANS A BENEFIT OFFERED AS A RIDER TO A HEALTH BENEFIT PLAN THAT PROVIDES COVERAGE FOR A PROGRAM OR ACTIVITY THAT:

(1) IS DESIGNED TO:

(I) PREVENT OR DETECT DISEASE OR ILLNESS;

(II) REDUCE OR AVOID POOR CLINICAL OUTCOMES;

(III) PREVENT COMPLICATIONS FROM MEDICAL CONDITIONS; OR

(IV) PROMOTE HEALTHY BEHAVIORS AND LIFESTYLE CHOICES; AND

(2) COMPLIES WITH REGULATIONS ADOPTED BY THE COMMISSION.

15-1204.

(G) (1) IN THIS SUBSECTION, “PROMINENT CARRIER” MEANS A CARRIER THAT INSURES AT LEAST 10% OF THE TOTAL LIVES INSURED IN THE SMALL GROUP MARKET.

(2) (I) A PROMINENT CARRIER SHALL OFFER A WELLNESS BENEFIT FOR A HEALTH BENEFIT PLAN OFFERED UNDER THIS SUBTITLE.

(II) A CARRIER THAT IS NOT A PROMINENT CARRIER MAY OFFER A WELLNESS BENEFIT FOR A HEALTH BENEFIT PLAN OFFERED UNDER THIS SUBTITLE.

(3) A CARRIER MAY NOT CONDITION THE SALE OF A WELLNESS BENEFIT TO A SMALL EMPLOYER ON PARTICIPATION OF THE ELIGIBLE EMPLOYEES OF THE SMALL EMPLOYER IN WELLNESS PROGRAMS OR ACTIVITIES.

15-1206.

(G) (1) A LICENSED INSURANCE PRODUCER ~~SHALL PROVIDE TO A SMALL EMPLOYER INFORMATION ABOUT,~~ IN CONNECTION WITH THE SALE, SOLICITATION, OR NEGOTIATION OF A HEALTH BENEFIT PLAN TO A SMALL EMPLOYER, SHALL:

(I) ~~BONA FIDE WELLNESS PROGRAMS:~~

~~1. AS DEFINED IN § 27-210 OF THIS ARTICLE; AND~~

~~2. THAT MEET THE REQUIREMENTS OF ANY REGULATIONS ADOPTED BY THE COMMISSION~~ PROVIDE INFORMATION TO THE SMALL EMPLOYER ABOUT WELLNESS BENEFITS; AND

(II) ~~THE~~ ADVISE THE SMALL EMPLOYER TO CONSULT A TAX ADVISOR ABOUT THE TAX ADVANTAGES OF A PAYROLL DEDUCTION PLAN ~~THAT SATISFIES~~ UNDER § 125 OF THE INTERNAL REVENUE CODE.

(2) THE INFORMATION SHALL BE PROVIDED:

(I) WHENEVER THE EMPLOYER PURCHASES OR RENEWS A HEALTH ~~INSURANCE POLICY~~ BENEFIT PLAN; AND

(II) ON REQUEST.

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

Article - Health - General

19-101.

In this subtitle, "Commission" means the Maryland Health Care Commission.

19-108.

(a) In addition to the duties set forth elsewhere in this subtitle, the Commission:

(1) [shall] **SHALL** adopt regulations:

[(1)] (I) Specifying the Comprehensive Standard Health Benefit Plan to apply under Title 15, Subtitle 12 of the Insurance Article; and

[(2)] (II) Specifying the Limited Health Benefit Plan to apply under Title 15, Subtitle 12 of the Insurance Article; **AND**

(2) **ON OR BEFORE MARCH 1, 2008, IN CONSULTATION WITH THE DEPARTMENT, SHALL PROPOSE REGULATIONS TO:**

(I) **SPECIFY THE COMPONENTS OF ~~BONA FIDE WELLNESS PROGRAMS~~ WELLNESS BENEFITS, OFFERED ~~IN THE SMALL GROUP INSURANCE MARKET~~ UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE, THAT:**

~~1. MEET THE REQUIREMENTS OF § 27-210 OF THE INSURANCE ARTICLE; AND~~

~~2. INCLUDE INCLUDE INCENTIVES OR DIFFERENTIAL COST-SHARING FOR EMPLOYEES BASED ON THEIR PARTICIPATION IN WELLNESS ACTIVITIES; AND~~

~~(II) REQUIRE CARRIERS THAT PARTICIPATE IN THE SMALL GROUP INSURANCE MARKET TO OFFER A BONA FIDE WELLNESS PROGRAM; AND~~

~~(III) (II) REQUIRE SMALL EMPLOYERS RECEIVING A SUBSIDY OF ~~HEALTH INSURANCE~~ SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUM CONTRIBUTIONS UNDER TITLE 15, SUBTITLE 12A OF THE INSURANCE ARTICLE TO AGREE TO PURCHASE A ~~BONA FIDE WELLNESS PROGRAM~~ WELLNESS BENEFIT.~~

(b) In carrying out its duties under this section, the Commission shall comply with the provisions of § 15-1207 **AND TITLE 15, SUBTITLE 12A** of the Insurance Article.

Article - Insurance

15-1207.

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

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

(2) the Limited Health Benefit Plan to apply under this subtitle; AND

(3) THE REQUIREMENTS FOR A WELLNESS BENEFIT OFFERED BY A CARRIER TO APPLY UNDER THIS SUBTITLE.

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

Article – Health – General

19-101.

In this subtitle, "Commission" means the Maryland Health Care Commission.

19-108.

(a) In addition to the duties set forth elsewhere in this subtitle, the Commission:

(1) [shall] **SHALL** adopt regulations specifying the Comprehensive Standard Health Benefit Plan to apply under Title 15, Subtitle 12 of the Insurance Article; **AND**

(2) **ON OR BEFORE MARCH 1, 2008, IN CONSULTATION WITH THE DEPARTMENT, SHALL PROPOSE REGULATIONS TO:**

(I) **SPECIFY THE COMPONENTS OF ~~BONA FIDE WELLNESS PROGRAMS~~ WELLNESS BENEFITS, OFFERED IN THE SMALL GROUP INSURANCE MARKET UNDER TITLE 15, SUBTITLE 12 OF THE INSURANCE ARTICLE, THAT:**

~~1. MEET THE REQUIREMENTS OF § 27-210 OF THE INSURANCE ARTICLE; AND~~

~~2. INCLUDE INCLUDE INCENTIVES OR DIFFERENTIAL COST-SHARING FOR EMPLOYEES BASED ON THEIR PARTICIPATION IN WELLNESS ACTIVITIES; AND~~

~~(H) REQUIRE CARRIERS THAT PARTICIPATE IN THE SMALL GROUP INSURANCE MARKET TO OFFER A BONA FIDE WELLNESS PROGRAM; AND~~

~~(HH)~~ (II) REQUIRE SMALL EMPLOYERS RECEIVING A SUBSIDY OF HEALTH INSURANCE SMALL EMPLOYER HEALTH BENEFIT PLAN PREMIUM CONTRIBUTIONS UNDER TITLE 15, SUBTITLE 12A OF THE INSURANCE ARTICLE TO AGREE TO PURCHASE A BONA FIDE WELLNESS PROGRAM WELLNESS BENEFIT.

(b) In carrying out its duties under this section, the Commission shall comply with the provisions of § 15-1207 AND TITLE 15, SUBTITLE 12A of the Insurance Article.

Article - Insurance

15-1207.

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

(1) the Comprehensive Standard Health Benefit Plan to apply under this subtitle; AND

(2) THE REQUIREMENTS FOR A WELLNESS BENEFIT OFFERED BY A CARRIER TO APPLY UNDER THIS SUBTITLE.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that in fiscal year 2009, the level of benefits provided to individuals under § 15-103(a)(2)(x) of the Health – General Article, as enacted by Section 1 of this Act, be at least equivalent to the benefits that had been offered to individuals participating in the Primary Adult Care Program repealed under Section 1 of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, to the extent that funds are provided in the State budget, the medical care and other health care services under the Maryland Medical Assistance Program made available under § 15-103(a)(2)(x) of the Health – General Article, as enacted by Section 1 of this Act, shall be phased in as follows:

(1) in fiscal year 2010, specialty medical care and hospital emergency department services if the combined total of general fund revenues and Education Trust Fund revenues as submitted with the Governor's proposed budget is greater than \$16,241,000,000;

(2) in fiscal year 2011, outpatient hospital services, if the combined total of general fund revenues and Education Trust Fund revenues as submitted with the Governor's proposed budget is greater than \$16,918,000,000;

(3) in fiscal year 2012, inpatient hospital services, with limits either on the benefits covered or the number of individuals receiving the benefits, if the combined total of general fund revenues and Education Trust Fund revenues as submitted with the Governor's proposed budget is greater than \$18,069,000,000; and

(4) in fiscal year 2013, full Medicaid benefits, with limits either on the benefits covered or the number of individuals receiving the benefits.

SECTION 7. AND BE IT FURTHER ENACTED, That, on or before March 1, 2008, the Department of Health and Mental Hygiene shall submit to the federal Centers for Medicare and Medicaid Services an amendment to the Medicaid waiver that implements the changes to §§ 15-103(a)(2)(x) and (3) and 15-140 of the Health – General Article, as enacted by Section 1 of this Act. The changes to §§ 15-103(a)(2)(x) and (3) and 15-140 of the Health – General Article, as enacted by Section 1 of this Act, shall take effect on the date that the federal Centers for Medicare and Medicaid Services approves the waiver amendment. If the waiver amendment is denied, the changes to §§ 15-103(a)(2)(x) and (3) and 15-140 of the Health – General Article, as enacted by Section 1 of this Act, shall be null and void without the necessity of further action by the General Assembly. The Department of Health and Mental Hygiene, within 5 days after receiving notice of approval or denial of a waiver, shall forward a copy of the notice to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

SECTION 8. AND BE IT FURTHER ENACTED, That an individual who is enrolled in the Primary Adult Care Program and becomes eligible for Maryland Medical Assistance Program benefits under § 15-103(a) of the Health – General Article shall be automatically enrolled in the same managed care organization unless the individual selects another participating managed care organization. Individuals who disenroll from the Primary Adult Care Program and, within 120 days of disenrolling, enroll in the Maryland Medical Assistance Program in a category of eligibility under § 15-103(a) of the Health – General Article, shall be assigned to the managed care organization in which the individual was most recently enrolled.

SECTION 9. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal year 2009, funds may be appropriated by approved budget amendment from the Health Care Coverage Fund established under Section 1 of this Act for:

(1) the expansion of eligibility for the Maryland Medical Assistance Program, as enacted under Section 1 of this Act; and

(2) providing funding for the Small Employer Health ~~Insurance~~ Benefit Plan Premium Subsidy Program created in Section 1 of this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That the State Health Services Cost Review Commission and the Department of Health and Mental Hygiene shall develop a mechanism to calculate the amount of averted hospital uncompensated care resulting from the expansion of health care coverage, as enacted under Section 1 of this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, in fiscal year 2009, \$75,000,000 may be transferred by approved budget amendment from the Maryland Health Insurance Plan Fund to the Health Care Coverage Fund established under Section 1 of this Act to be used only for the purposes authorized under § 15-701 of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates, the hospital rate assessment specified under ~~§ 19-214~~ § 19-214(d) of the Health – General Article, as enacted under Section 1 of this Act, shall terminate at the end of the fiscal year in which the waiver terminates.

SECTION 13. AND BE IT FURTHER ENACTED, That the State shall ensure that the transfer of funds from the Maryland Health Insurance Plan Fund under Section 11 of this Act and the hospital rate assessment specified under ~~§ 19-214~~ § 19-214(d) of the Health – General Article, as enacted under Section 1 of this Act, shall be consistent with the State's Medicare waiver under § 1814(b) of the federal Social Security Act and federal regulations.

SECTION 14. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly, as part of the overall expansion of eligibility for the Maryland Medical Assistance Program, to increase access to long-term care services, including home and community-based services for individuals who meet the current Medicaid financial requirements of the Program and who need 24-hour supervision due to Alzheimer's disease and related dementias, significant brain injury, or serious mental illness.

SECTION ~~14~~, 15. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 5 of Chapter 287 of the Acts of the General Assembly of 2004. If that termination provision takes effect, Section 3 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION ~~15~~, 16. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health

or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and except as provided in Sections 7 and ~~14~~ 15 of this Act, ~~this Act~~ shall take effect ~~January 1, 2008~~ from the date it is enacted.

Approved by the Governor, November 19, 2007.