

HOUSE BILL 238

C3

8lr0040

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Insurance Administration, Maryland)**

Introduced and read first time: January 23, 2008

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 2008

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Insurance Plan – Status, Operation, and Regulation**

3 FOR the purpose of transferring the Maryland Health Insurance Plan from the
4 Maryland Insurance Administration and establishing the Maryland Health
5 Insurance Plan as an independent unit of the State government; altering the
6 composition of the Board of Directors of the Plan; authorizing the Executive
7 Director of the Plan to employ certain staff; repealing a certain exemption of the
8 Board from certain State personnel laws; requiring the Board to develop a
9 certain master plan document; requiring the Board to file the master plan
10 documents with the Maryland Insurance Commissioner and provide the
11 document to a member, at no charge, on request of the member; requiring the
12 Board to develop a certain certificate of coverage; requiring the Board to update
13 the certificate of coverage under certain circumstances; requiring the Board to
14 provide the most recent version of the certificate of coverage to certain persons
15 under certain circumstances; requiring the Board to make the most recent
16 version of the certificate of coverage available on the Plan’s website; requiring
17 the Board to provide notice of a change to the certificate of coverage to certain
18 persons; specifying the circumstances under which the Board may make
19 changes to a certain benefit package; providing for the effective date of a change
20 to a certain benefit package; requiring the Board to submit a certain report to
21 certain committees of the General Assembly on or before a certain date each
22 year; providing that if there is a conflict between a provision of the master plan
23 document and a provision of the certificate of coverage a certain provision will
24 control; requiring the Plan to comply with the terms of certain written
25 representations or authorizations under certain circumstances; requiring the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 contract between the Board and the Plan Administrator to require the
 2 Administrator to comply with certain provisions of law; providing that the Plan
 3 is not subject to certain laws; requiring the Commissioner to regulate the Plan;
 4 requiring the Plan and the Board of Directors of the Plan to comply with certain
 5 provisions of law; providing that certain provisions of this Act do not limit the
 6 authority of the Commissioner to impose certain penalties or take certain action
 7 under certain circumstances; authorizing the Commissioner to require the Plan
 8 to make certain restitution to certain individuals under certain circumstances;
 9 prohibiting the Commissioner from imposing a fine or administrative penalty on
 10 the Plan; requiring the Commissioner to provide a copy of an adopted
 11 examination report or the results of certain reviews to the Board and to make
 12 recommendations for any corrective action to be taken by the Board; requiring
 13 the Board to determine the steps necessary to implement corrective action;
 14 requiring certain moneys to be deposited into the Maryland Health Insurance
 15 Plan Fund; requiring the Maryland Insurance Administration to provide fiscal
 16 and personnel services to the Plan at no charge during ~~certain fiscal years~~ a
 17 certain fiscal year; making a certain stylistic change; providing for the
 18 application of this Act; and generally relating to the Maryland Health Insurance
 19 Plan.

20 BY repealing and reenacting, with amendments,
 21 Article – Insurance
 22 Section 14–502, 14–503, 14–505, and 14–506
 23 Annotated Code of Maryland
 24 (2006 Replacement Volume and 2007 Supplement)

25 BY adding to
 26 Article – Insurance
 27 Section 14–509
 28 Annotated Code of Maryland
 29 (2006 Replacement Volume and 2007 Supplement)

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

32 **Article – Insurance**

33 14–502.

34 (a) There is a Maryland Health Insurance Plan.

35 (b) The Plan is an independent unit [that operates within the
 36 Administration] **OF THE STATE GOVERNMENT.**

37 (c) The purpose of the Plan is to decrease uncompensated care costs by
 38 providing access to affordable, comprehensive health benefits for medically
 39 uninsurable residents of the State by July 1, 2003.

1 (d) It is the intent of the General Assembly that the Plan operate as a
2 nonprofit entity and that Fund revenue, to the extent consistent with good business
3 practices, be used to subsidize health insurance coverage for medically uninsurable
4 individuals.

5 (E) (1) **THE OPERATIONS OF THE PLAN ARE SUBJECT TO THE**
6 **PROVISIONS OF THIS SUBTITLE WHETHER THE OPERATIONS ARE PERFORMED**
7 **DIRECTLY BY THE PLAN ITSELF OR THROUGH AN ENTITY CONTRACTED WITH**
8 **THE PLAN.**

9 (2) **THE PLAN SHALL ENSURE THAT ANY ENTITY CONTRACTED**
10 **WITH THE PLAN COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE WHEN**
11 **PERFORMING SERVICES THAT ARE SUBJECT TO THIS SUBTITLE ON BEHALF OF**
12 **THE PLAN.**

13 14-503.

14 (a) There is a Board for the Plan.

15 (b) The Plan shall operate subject to the supervision and control of the
16 Board.

17 (c) The Board consists of ~~nine~~ **11** members, of whom:

18 (1) [one shall be the Commissioner;

19 (2)] one shall be the Executive Director of the Maryland Health Care
20 Commission **OR THE DESIGNEE OF THE EXECUTIVE DIRECTOR OF THE**
21 **MARYLAND HEALTH CARE COMMISSION;**

22 [(3)](2) one shall be the Executive Director of the Health Services
23 Cost Review Commission **OR THE DESIGNEE OF THE EXECUTIVE DIRECTOR OF**
24 **THE HEALTH SERVICES COST REVIEW COMMISSION;**

25 [(4)](3) one shall be the Secretary [of the Department] of Budget
26 and Management **OR THE DESIGNEE OF THE SECRETARY OF BUDGET AND**
27 **MANAGEMENT;**

28 [(5)](4) ~~two~~ **THREE** shall be appointed by the Director of the Health,
29 Education, and Advocacy Unit in the Office of the Attorney General in accordance with
30 subsection (d) of this section;

31 [(6)](5) one shall be appointed by the Commissioner to represent
32 carriers operating in the State;

1 [(7)](6) one shall be appointed by the Commissioner to represent
2 insurance producers selling insurance in the State; [and]

3 [(8)](7) one shall be an individual who is an owner or employee of a
4 minority-owned business in the State, appointed by the Governor; ~~AND~~

5 **(8) ONE SHALL BE THE SECRETARY OF THE DEPARTMENT OF**
6 **HEALTH AND MENTAL HYGIENE OR THE DESIGNEE OF THE SECRETARY OF**
7 **HEALTH AND MENTAL HYGIENE; AND**

8 **(9) ONE SHALL BE APPOINTED BY THE GOVERNOR TO**
9 **REPRESENT HOSPITALS IN THE STATE.**

10 (d) (1) (i) Each Board member appointed under subsection [(c)(5)]
11 **(C)(4)** of this section shall be a consumer who does not have a substantial financial
12 interest in a person regulated under this article or under Title 19, Subtitle 7 of the
13 Health – General Article.

14 (ii) One of the Board members appointed under subsection
15 [(c)(5)]**(C)(4)** of this section shall be a member of a racial minority.

16 (2) The term of an appointed member is 4 years.

17 (3) At the end of a term, an appointed member continues to serve until
18 a successor is appointed and qualifies.

19 (4) An appointed member who is appointed after a term has begun
20 serves only for the rest of the term and until a successor is appointed and qualifies.

21 (e) Each member of the Board is entitled to reimbursement for expenses
22 under the Standard State Travel Regulations, as provided in the State budget.

23 (f) (1) The Board shall appoint an Executive Director who shall be the
24 chief administrative officer of the Plan.

25 (2) The Executive Director shall serve at the pleasure of the Board.

26 (3) The Board shall determine the appropriate compensation for the
27 Executive Director.

28 (4) Under the direction of the Board, the Executive Director shall
29 perform any duty or function that is necessary for the operation of the Plan.

30 **(G) (1) THE EXECUTIVE DIRECTOR MAY EMPLOY A STAFF FOR THE**
31 **PLAN IN ACCORDANCE WITH THE STATE BUDGET.**

1 **(2) STAFF FOR THE PLAN ARE IN THE EXECUTIVE SERVICE,**
2 **MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS IN THE STATE**
3 **PERSONNEL MANAGEMENT SYSTEM.**

4 **(3) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE**
5 **DEPARTMENT OF BUDGET AND MANAGEMENT, MAY DETERMINE THE**
6 **APPROPRIATE JOB CLASSIFICATIONS AND GRADES FOR ALL STAFF.**

7 **[(g)](H)** The Board is not subject to[:

8 (1)] the provisions of the State Finance and Procurement Article[;].

9 [(2) the provisions of Division I of the State Personnel and Pensions
10 Article that govern the State Personnel Management System; or

11 (3) the provisions of Divisions II and III of the State Personnel and
12 Pensions Article.]

13 **[(h)](I)** (1) The Board shall adopt a plan of operation for the Plan.

14 (2) The Board shall submit the plan of operation and any amendment
15 to the plan of operation to the Commissioner for approval.

16 **[(i)](J)** On an annual basis, the Board shall submit to the Commissioner
17 an audited financial report of the Fund prepared by an independent certified public
18 accountant.

19 **[(j)](K)** (1) The Board shall adopt regulations necessary to operate and
20 administer the Plan.

21 (2) Regulations adopted by the Board may include:

22 (i) residency requirements for Plan enrollees;

23 (ii) Plan enrollment procedures; and

24 (iii) any other Plan requirements as determined by the Board.

25 **[(k)](L)** In order to maximize volume discounts on the cost of prescription
26 drugs, the Board may aggregate the purchasing of prescription drugs for enrollees in
27 the Plan and enrollees in the Senior Prescription Drug Assistance Program
28 established under Part II of this subtitle.

29 **[(l)](M)** (1) The Board shall report on or before December 1 of each year
30 to the Governor and, subject to § 2-1246 of the State Government Article, to the
31 General Assembly on:

- 1 (i) the number of members enrolled in the Plan;
- 2 (ii) any increase or decrease in the number of members enrolled
3 in the Plan from the previous year;
- 4 (iii) any actions taken by the Board to increase enrollment or
5 benefits offered through the Plan; and
- 6 (iv) the amount of any surplus in the Fund at the end of the
7 previous fiscal year.

8 (2) For those members enrolled in the Plan whose eligibility in the
9 Plan is subject to the requirements of the federal tax credit for health insurance costs
10 under Section 35 of the Internal Revenue Code, the Board shall report on or before
11 December 1, 2003, and annually thereafter, to the Governor, and subject to § 2-1246 of
12 the State Government Article, to the General Assembly on the number of members
13 enrolled in the Plan and the costs to the Plan associated with providing insurance to
14 those members.

15 14-505.

16 (a) (1) The Board shall establish a standard benefit package to be offered
17 by the Plan.

18 (2) The Board may exclude from the benefit package:

19 (i) a health care service, benefit, coverage, or reimbursement
20 for covered health care services that is required under this article or the Health –
21 General Article to be provided or offered in a health benefit plan that is issued or
22 delivered in the State by a carrier; or

23 (ii) reimbursement required by statute, by a health benefit plan
24 for a service when that service is performed by a health care provider who is licensed
25 under the Health Occupations Article and whose scope of practice includes that
26 service.

27 **(B) (1) THE BOARD SHALL DEVELOP A MASTER PLAN DOCUMENT**
28 **THAT SETS FORTH IN DETAIL ALL OF THE TERMS AND CONDITIONS OF THE**
29 **STANDARD BENEFIT PACKAGE REQUIRED BY SUBSECTION (A)(1) OF THIS**
30 **SECTION, INCLUDING:**

31 **(I) THE BENEFITS PROVIDED IN THE PACKAGE;**

32 **(II) ANY EXCLUSIONS FROM COVERAGE;**

1 (III) ANY CONDITIONS REQUIRING PREAUTHORIZATIONS OR
2 UTILIZATION REVIEW AS A CONDITION TO OBTAINING A BENEFIT OR SERVICE;

3 (IV) ANY CONDITIONS OR LIMITATIONS ON THE SELECTION
4 OF A PRIMARY CARE PROVIDER OR PROVIDER OF SPECIALTY MEDICAL CARE;

5 (V) ANY COST-SHARING REQUIREMENTS, INCLUDING ANY
6 PREMIUMS, DEDUCTIBLES, COINSURANCE, AND COPAYMENT AMOUNTS FOR
7 WHICH A MEMBER MAY BE RESPONSIBLE; AND

8 (VI) THE PROCEDURES TO BE FOLLOWED IN PRESENTING A
9 CLAIM.

10 (2) THE BOARD SHALL:

11 (I) FILE THE MASTER PLAN DOCUMENT WITH THE
12 COMMISSIONER; AND

13 (II) PROVIDE A COPY OF THE MOST RECENT VERSION OF
14 THE MASTER PLAN DOCUMENT TO A MEMBER, AT NO CHARGE, ON REQUEST OF
15 THE MEMBER.

16 (c) (1) THE BOARD SHALL DEVELOP A CERTIFICATE OF COVERAGE
17 THAT DESCRIBES THE ESSENTIAL FEATURES OF THE PLAN AND THE STANDARD
18 BENEFIT PACKAGE.

19 (2) THE CERTIFICATE OF COVERAGE SHALL:

20 (I) BE WRITTEN IN CLEAR AND EASY TO UNDERSTAND
21 LANGUAGE; AND

22 (II) BE SUFFICIENTLY ACCURATE AND COMPREHENSIVE TO
23 REASONABLY INFORM MEMBERS OF THEIR RIGHTS AND OBLIGATIONS UNDER
24 THE STANDARD BENEFIT PACKAGE.

25 (3) THE BOARD SHALL UPDATE THE CERTIFICATE OF COVERAGE
26 AS NECESSARY TO REFLECT CHANGES TO THE STANDARD BENEFIT PACKAGE.

27 (4) THE BOARD SHALL:

28 (I) WITHIN 30 DAYS AFTER A MEMBER'S ENROLLMENT IN
29 THE PLAN, PROVIDE THE MOST RECENT VERSION OF THE CERTIFICATE OF
30 COVERAGE TO:

31 1. THE MEMBER; OR

1 **2. IF DEPENDENTS ARE INCLUDED IN THE**
2 **COVERAGE, TO THE FAMILY UNIT;**

3 **(II) MAKE THE MOST RECENT VERSION OF THE**
4 **CERTIFICATE OF COVERAGE AVAILABLE ON THE PLAN WEBSITE; AND**

5 **(III) PROVIDE NOTICE OF ANY CHANGE TO THE STANDARD**
6 **BENEFIT PACKAGE TO:**

7 **1. EACH MEMBER OF THE PLAN TO WHOM A**
8 **CERTIFICATE OF COVERAGE PREVIOUSLY HAS BEEN PROVIDED; OR**

9 **2. IF DEPENDENTS ARE INCLUDED IN THE**
10 **COVERAGE, TO EACH FAMILY UNIT TO WHICH A CERTIFICATE OF COVERAGE**
11 **PREVIOUSLY HAS BEEN PROVIDED.**

12 **(D) THE BOARD MAY MAKE A CHANGE TO THE STANDARD BENEFIT**
13 **PACKAGE ONLY IF:**

14 **(1) THE PROPOSED CHANGE IS SUBMITTED IN WRITING TO THE**
15 **BOARD AT LEAST 15 DAYS BEFORE THE MEETING AT WHICH A VOTE ON THE**
16 **PROPOSED CHANGE WILL BE TAKEN;**

17 **(2) CONSIDERATION OF THE PROPOSED CHANGE IS LISTED AS AN**
18 **ACTION ITEM ON THE AGENDA FOR THE MEETING;**

19 **(3) THE PROPOSED CHANGE IS SET FORTH IN A WRITTEN MOTION**
20 **THAT:**

21 **(I) IDENTIFIES THE SPECIFIC CHANGES TO BE MADE; AND**

22 **(II) IS INCLUDED IN THE MINUTES OF THE MEETING OF THE**
23 **BOARD AT WHICH THE MOTION IS MADE;**

24 **(4) THE DELIBERATIONS AND VOTE ON THE PROPOSED CHANGE**
25 **OCCUR DURING A PUBLIC SESSION OF A MEETING WITH THE BOARD; AND**

26 **(5) THE VOTE APPROVING THE PROPOSED CHANGE IS REFLECTED**
27 **IN THE MINUTES OF THE MEETING OF THE BOARD AT WHICH THE VOTE IS**
28 **TAKEN.**

29 **(E) A CHANGE TO THE STANDARD BENEFIT PACKAGE IS NOT EFFECTIVE**
30 **UNTIL THE LATER OF:**

- 1 **(1) 30 DAYS AFTER THE DATE THE BOARD ADOPTS THE CHANGE;**
- 2 **(2) THE DATE AN UPDATED MASTER PLAN DOCUMENT**
3 **REFLECTING THE CHANGE IS FILED WITH THE COMMISSIONER; OR**
- 4 **(3) 15 DAYS AFTER NOTICE OF THE CHANGE AND THE EFFECTIVE**
5 **DATE OF CHANGE IS:**
- 6 **(I) SENT TO:**
- 7 **1. EACH MEMBER OF THE PLAN; OR**
- 8 **2. IF DEPENDENTS ARE INCLUDED IN THE**
9 **COVERAGE, TO THE FAMILY UNIT; AND**
- 10 **(II) POSTED ON THE PLAN WEBSITE.**
- 11 **(F) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, IN ACCORDANCE**
12 **WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE BOARD SHALL**
13 **REPORT TO THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE**
14 **AND THE SENATE FINANCE COMMITTEE ON:**
- 15 **(1) THE CURRENT STANDARD BENEFIT PACKAGE OFFERED BY**
16 **THE PLAN; AND**
- 17 **(2) ANY CHANGES TO THE STANDARD BENEFIT PACKAGE**
18 **IMPLEMENTED DURING THE IMMEDIATELY PRECEDING FISCAL YEAR.**
- 19 **(G) (1) IF THERE IS A CONFLICT BETWEEN A PROVISION OF THE**
20 **MASTER PLAN DOCUMENT AND A PROVISION OF THE CERTIFICATE OF**
21 **COVERAGE, THE PROVISION THAT IS MOST BENEFICIAL TO THE MEMBER SHALL**
22 **CONTROL.**
- 23 **(2) NOTWITHSTANDING THE TERMS AND CONDITIONS OF THE**
24 **STANDARD BENEFIT PACKAGE, THE MASTER PLAN DOCUMENT, OR THE**
25 **CERTIFICATE OF COVERAGE, THE PLAN SHALL COMPLY WITH THE TERMS OF**
26 **ANY WRITTEN REPRESENTATION OR AUTHORIZATION OF COVERAGE MADE BY**
27 **OR ON BEHALF OF THE PLAN TO THE EXTENT THAT A MEMBER HAS INCURRED**
28 **COSTS FOR HEALTH CARE SERVICES IN REASONABLE RELIANCE ON THE**
29 **WRITTEN REPRESENTATION OR AUTHORIZATION.**
- 30 **[(b)](H) (1) The Board shall establish a premium rate for Plan coverage**
31 **subject to review and approval by the Commissioner.**
- 32 **(2) The premium rate may vary on the basis of family composition.**

1 (3) If the Board determines that a standard risk rate would create
2 market dislocation, the Board may adjust the premium rate based on member age.

3 (4) The Board may charge different premiums based on the benefit
4 package delivery system or cost-sharing arrangement when more than one benefit
5 package delivery system or cost-sharing arrangement is offered.

6 [(c)](I) (1) The Board shall determine a standard risk rate by
7 considering the premium rates charged by carriers in the State for coverage
8 comparable to that of the Plan.

9 (2) The premium rate for Plan coverage:

10 (i) may not be less than 110% of the standard risk rate
11 established under paragraph (1) of this subsection; and

12 (ii) may not exceed 200% of the standard risk rate.

13 (3) Premium rates shall be reasonably calculated to encourage
14 enrollment in the Plan.

15 (4) The Board may subsidize premiums, deductibles, and other policy
16 expenses, based on a member's income.

17 [(d)](J) (1) Notwithstanding the provisions of subsection [(b)](H) of this
18 section, if the Board has implemented a preexisting condition limitation, the Board
19 may offer members an optional endorsement to remove the preexisting condition
20 limitation.

21 (2) The Board may charge an actuarially justified additional premium
22 amount in addition to the premium rate for the standard benefit package for the
23 optional endorsement under paragraph (1) of this subsection.

24 (3) An amount charged in addition to the premium rate for the
25 standard benefit package for the optional endorsement under paragraph (1) of this
26 subsection shall be subject to review and approval by the Commissioner.

27 [(e)](K) Losses incurred by the Plan shall be subsidized by the Fund.

28 14-506.

29 (a) (1) The Board shall select an Administrator to administer the Plan.

30 (2) The Administrator shall be selected based on criteria adopted by
31 the Board in regulation, which shall include:

1 (i) the Administrator's proven ability to provide health
2 insurance coverage to individuals;

3 (ii) the efficiency and timeliness of the Administrator's claim
4 processing procedures;

5 (iii) an estimate of total charges for administering the Plan;

6 (iv) the Administrator's proven ability to apply effective cost
7 containment programs and procedures; and

8 (v) the financial condition and stability of the Administrator.

9 (b) (1) The Administrator shall serve for a period of time specified in its
10 contract with the Plan subject to removal for cause and any other terms, conditions,
11 and limitations contained in the contract.

12 (2) **THE CONTRACT BETWEEN THE BOARD AND THE**
13 **ADMINISTRATOR SHALL REQUIRE THE ADMINISTRATOR TO COMPLY WITH THE**
14 **PROVISIONS OF THIS SUBTITLE TO WHICH THE PLAN IS SUBJECT.**

15 (c) The Administrator shall perform functions relating to the Plan as
16 required by the Board, including:

17 (1) determination of eligibility;

18 (2) data collection;

19 (3) case management;

20 (4) financial tracking and reporting;

21 (5) payment of claims; and

22 (6) premium billing.

23 (d) (1) Each year, the Plan Administrator shall submit to the
24 Commissioner an accounting of medical claims incurred, administrative expenses, and
25 premiums collected.

26 (2) Plan losses shall be certified by the Commissioner in accordance
27 with paragraph (3) of this subsection and returned to the Administrator by the Board.

28 (3) Administrative expenses and fees shall be paid as provided in the
29 Administrator's contract with the Board.

1 (e) (1) The Board may contract with a qualified, independent third party
2 for any service necessary to carry out the powers and duties of the Board.

3 (2) Unless permission is granted specifically by the Board, a third
4 party hired by the Board may not release, publish, or otherwise use any information to
5 which the third party had access under its contract.

6 (f) The Administrator shall submit regular reports to the Board regarding
7 the operation of the Plan.

8 (g) The Administrator shall submit an annual report to the Board that
9 includes:

10 (1) the net written and earned premiums for the year;

11 (2) the expense of the administration for the year; and

12 (3) the paid and incurred losses for the year.

13 **14-509.**

14 (A) **THE COMMISSIONER SHALL REGULATE THE PLAN.**

15 (B) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PLAN IS**
16 **NOT SUBJECT TO THE INSURANCE LAWS OF THE STATE.**

17 (C) **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE**
18 **PLAN SHALL BE SUBJECT TO:**

19 (1) **§§ 2-205, 2-207, 2-208, AND 2-209 OF THIS ARTICLE;**

20 (2) **§§ 15-112, 15-112.1, 15-113, AND 15-130 OF THIS ARTICLE;**

21 (3) **§§ 15-401, 15-402, 15-403, AND 15-403.1 OF THIS ARTICLE;**

22 (4) **§§ 15-830, 15-831, AND 15-833 OF THIS ARTICLE;**

23 (5) **§§ 15-1001, 15-1003, 15-1004, 15-1005, 15-1006, 15-1007,**
24 **15-1008, AND 15-1009 OF THIS ARTICLE;**

25 (6) **TITLE 15, SUBTITLES 10A, 10B, AND 10D OF THIS ARTICLE;**

26 **AND**

27 (7) **§§ 27-303 AND 27-304 OF THIS ARTICLE.**

28 (D) (1) **THE PLAN IS NOT SUBJECT TO § 15-10B-12 OF THIS ARTICLE.**

1 **(2) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE**
2 **COMMISSIONER TO IMPOSE THE PENALTY AUTHORIZED UNDER § 15-10B-12 OF**
3 **THIS ARTICLE ON A PRIVATE REVIEW AGENT CONDUCTING UTILIZATION REVIEW**
4 **ON BEHALF OF THE PLAN.**

5 **(E) (1) THE COMMISSIONER MAY NOT IMPOSE A FINE OR**
6 **ADMINISTRATIVE PENALTY ON THE PLAN.**

7 **(2) IF THE COMMISSIONER FINDS THAT THE PLAN HAS VIOLATED**
8 **A PROVISION OF THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE PLAN**
9 **TO MAKE RESTITUTION TO EACH CLAIMANT WHO HAS SUFFERED ACTUAL**
10 **ECONOMIC DAMAGES BECAUSE OF THE VIOLATION.**

11 **(3) SUBJECT TO THE TERMS OF THE MASTER PLAN DOCUMENT,**
12 **THE RESTITUTION AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION**
13 **MAY NOT EXCEED THE AMOUNT OF ACTUAL ECONOMIC DAMAGES SUSTAINED BY**
14 **THE CLAIMANT.**

15 **(4) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE**
16 **COMMISSIONER TO TAKE ACTION AGAINST ANY PERSON WITH RESPECT TO ANY**
17 **PROVISION OF THIS ARTICLE, OTHER THAN THIS SUBTITLE, THAT IS**
18 **APPLICABLE TO THAT PERSON.**

19 **(F) (1) THE COMMISSIONER SHALL:**

20 **(I) PROVIDE A COPY OF AN ADOPTED EXAMINATION**
21 **REPORT OR THE RESULTS OF ANY REVIEW CONDUCTED UNDER THIS SUBTITLE**
22 **TO THE BOARD; AND**

23 **(II) MAKE RECOMMENDATIONS FOR CORRECTIVE ACTION**
24 **TO BE TAKEN BY THE BOARD.**

25 **(2) (I) BASED ON THE COMMISSIONER'S RECOMMENDATIONS**
26 **PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL**
27 **DETERMINE THE STEPS NECESSARY TO IMPLEMENT CORRECTIVE ACTION TO**
28 **COMPLY WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING WHETHER TO**
29 **EXERCISE ANY REMEDIES AVAILABLE TO THE BOARD UNDER THE CONTRACT**
30 **BETWEEN THE BOARD AND THE PLAN ADMINISTRATOR.**

31 **(II) IF THE BOARD EXERCISES ITS RIGHT TO IMPOSE FISCAL**
32 **SANCTIONS OR LIQUIDATED DAMAGES UNDER THE TERMS OF A CONTRACT**
33 **BETWEEN THE BOARD AND THE PLAN ADMINISTRATOR, THE MONEYS SHALL BE**
34 **DEPOSITED IN THE FUND.**

1 **(3) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE**
2 **COMMISSIONER TO:**

3 **(I) IMPOSE THE PENALTY UNDER § 15-10B-12 OF THIS**
4 **ARTICLE ON A PRIVATE REVIEW AGENT CONDUCTING UTILIZATION REVIEW ON**
5 **BEHALF OF THE PLAN; OR**

6 **(II) IMPOSE THE PENALTIES UNDER TITLE 8, SUBTITLE 3**
7 **OF THIS ARTICLE ON A THIRD PARTY ADMINISTRATOR OPERATING ON BEHALF**
8 **OF THE PLAN.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That during fiscal year ~~2008~~
10 2009, the Maryland Insurance Administration shall provide fiscal and personnel
11 services to the Maryland Health Insurance Plan at no charge.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to
13 any contract that becomes effective, is entered into, or is modified on or after the
14 effective date of this Act.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.