

# HOUSE BILL 1522

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By: **Chair, Health and Government Operations Committee (By Request –  
Departmental – Health and Mental Hygiene)**

Introduced and read first time: February 21, 2008

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Care Provider Rate Stabilization Fund – Allocations to and**  
3 **Disbursements from the Medical Assistance Program Account**

4 FOR the purpose of altering the allocation by the Maryland Insurance Commissioner  
5 of certain revenue in the Maryland Health Care Provider Rate Stabilization  
6 Fund to the Medical Assistance Program Account; providing that certain  
7 revenue in the Fund after a certain fiscal year shall accrue to the Medical  
8 Assistance Program Account; expanding the health care providers who are  
9 eligible to receive certain payments from the Medical Assistance Program  
10 Account to include a health care practitioner licensed under the Maryland  
11 Dentistry Act; including the Maryland State Dental Association among the  
12 groups that determine, in consultation with the Secretary of Health and Mental  
13 Hygiene, health care provider rate increases payable from the Fund; defining a  
14 certain term; and generally relating to allocations to and disbursements from  
15 the Medical Assistance Program Account in the Maryland Health Care Provider  
16 Rate Stabilization Fund.

17 BY repealing and reenacting, without amendments,  
18 Article – Insurance  
19 Section 19–801 and 19–802  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Insurance  
24 Section 19–803 and 19–807  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

**Article – Insurance**

19–801.

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

(b) “Fund” means the Maryland Health Care Provider Rate Stabilization Fund.

(c) (1) “Health care provider” means a health care practitioner:

(i) licensed under Title 14 of the Health Occupations Article; or

(ii) certified as a nurse midwife under Title 8 of the Health Occupations Article.

(2) “Health care provider” does not include:

(i) a respiratory care practitioner;

(ii) a radiation oncology/therapy technologist;

(iii) a medical radiation technologist; or

(iv) a nuclear medicine technologist.

(d) “Medical injury” has the meaning stated in § 3–2A–01 of the Courts Article.

(e) “Medical professional liability insurer” means an insurer that:

(1) holds a certificate of authority issued by the Commissioner under § 4–109 or § 4–112 of this article; and

(2) issues or delivers a policy in the State that insures a health care provider against damages due to medical injury.

(f) “Secretary” means the Secretary of Health and Mental Hygiene.

(g) “Subsidy factor” means, for medical professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2006, a percentage of the policyholder’s premium for the prior year that equals the quotient, measured as a percentage of the balance of the Rate Stabilization Account for the current calendar year divided by the aggregate amount of premiums

1 for medical professional liability insurance that would have been paid by health care  
2 providers at the approved rate during the prior calendar year.

3 19–802.

4 (a) There is a Maryland Health Care Provider Rate Stabilization Fund.

5 (b) The purposes of the Fund are to:

6 (1) retain health care providers in the State by allowing medical  
7 professional liability insurers to collect rates that are less than the rates approved  
8 under § 11–201 of this article;

9 (2) increase fee-for-service rates paid by the Maryland Medical  
10 Assistance Program to health care providers identified under § 19–807 of this subtitle;

11 (3) pay managed care organization health care providers identified  
12 under § 19–807 of this subtitle consistent with fee-for-service health care provider  
13 rates;

14 (4) increase capitation payments to managed care organizations  
15 participating in the Maryland Medical Assistance Program consistent with §  
16 15–103(b)(18) of the Health – General Article; and

17 (5) during the period that an allocation is made to the Rate  
18 Stabilization Account, subsidize up to \$350,000 annually to provide for the costs  
19 incurred by the Commissioner to administer the Fund.

20 (c) The Fund shall consist of:

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

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

24 (3) any other money from any other source accepted for the benefit of  
25 the Fund.

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

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

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

32 (g) The Fund comprises:

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

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

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

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

9                   (iii)   provide an increase in capitation payments to managed care  
10   organizations participating in the Maryland Medical Assistance Program consistent  
11   with § 15-103(b)(18) of the Health – General Article; and

12                   (iv)   after fiscal year 2009, maintain rates for health care  
13   providers and generally to support the operations of the Maryland Medical Assistance  
14   Program.

15   19-803.

16           (a)    The Commissioner shall administer the Fund.

17           (b)    Notwithstanding § 2-114 of this article:

18                   (1)    the Commissioner shall deposit the revenue from the tax imposed  
19   on health maintenance organizations and managed care organizations under § 6-102  
20   of this article in the Fund;

21                   (2)    during the period an allocation is made to the Rate Stabilization  
22   Account, the Commissioner may distribute up to \$350,000 annually from the revenue  
23   estimated to be received by the Fund in a fiscal year to provide for the costs incurred  
24   by the Commissioner to administer the Fund;

25                   (3)    after distributing the amount required under paragraph (2) of this  
26   subsection, the Commissioner shall allocate the revenue and unallocated balance of  
27   the Fund according to the following schedule:

28                           (i)    in fiscal year 2005, \$3,500,000 to the Medical Assistance  
29   Program Account;

30                           (ii)   in fiscal year 2006:

31                                   1.    \$52,000,000 to the Rate Stabilization Account to pay  
32   for health care provider rate reductions, credits, or refunds in calendar year 2005; and

2. \$30,000,000 to the Medical Assistance Program Account;

(iii) in fiscal year 2007:

1. \$45,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2006; and

2. \$45,000,000 to the Medical Assistance Program Account;

(iv) in fiscal year 2008:

1. \$35,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2007; and

2. \$65,000,000 to the Medical Assistance Program Account;

(v) in fiscal year 2009:

1. **[\$25,000,000] AN AMOUNT TO BE DETERMINED AT THE DISCRETION OF THE COMMISSIONER** to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2008; and

2. the remaining revenue to the Medical Assistance Program Account; and

(vi) in fiscal year 2010 and annually thereafter, 100% to the Medical Assistance Program Account.

(c) (1) Any revenue remaining in the Fund after fiscal year 2005 shall [remain in the Fund until otherwise directed by law] **ACCRUE TO THE MEDICAL ASSISTANCE PROGRAM ACCOUNT.**

(2) If in any fiscal year the allocations made under this section exceed the revenues estimated for that year, amounts available in the unallocated balance of the Fund may be substituted to the extent of a Fund deficit.

(d) (1) If a medical professional liability insurer provides coverage to a health care provider and that insurer did not earn premiums in the previous calendar year in the State, that insurer shall be allocated 5% of the balance of the Rate Stabilization Account or a lesser amount as determined by the Commissioner.

(2) If an allocation is made under paragraph (1) of this subsection, the funds available to other medical professional liability insurers shall be reduced on a pro rata basis.

19-807.

**(A) IN THIS SECTION, "HEALTH CARE PROVIDER" INCLUDES A HEALTH CARE PRACTITIONER LICENSED UNDER TITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE.**

**[(a)] (B)** (1) The Commissioner shall disburse money from the Medical Assistance Program Account to the Secretary.

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

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

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

(i) obstetricians;

(ii) neurosurgeons;

(iii) orthopedic surgeons; and

(iv) emergency medicine physicians.

(3) Portions of the Medical Assistance Program Account that exceed the amount provided under paragraph (2) of this subsection shall be used by the Secretary only to:

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

(ii) increase fee-for-service health care provider rates;

(iii) pay managed care organization health care providers consistent with the fee-for-service health provider rates; and

(iv) after fiscal year 2008:

1. maintain increased capitation payments to managed care organizations;
2. maintain increased rates for health care providers;
3. in accordance with § 6–121(b)(3) of this article, support the provision of office–based specialty care, diagnostic testing, and laboratory tests for individuals with family income that does not exceed 200% of the federal poverty level; and
4. support generally the operations of the Maryland Medical Assistance Program.

[(c)] **(D)** (1) Health care provider rate increases under subsection (b)(2) and (3)(ii), (iii), and (iv)2 of this section shall be determined by the Secretary in consultation with managed care organizations, the Maryland Hospital Association, the Maryland State Medical Society, the American Academy of Pediatrics, Maryland Chapter, [and] the American College of Emergency Room Physicians, Maryland Chapter, **AND THE MARYLAND STATE DENTAL ASSOCIATION.**

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

**SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect July 1, 2008.