

# SENATE BILL 974

J3

(8lr3416)

## ENROLLED BILL

—Finance / Appropriations and Health and Government Operations—

Introduced by **Senator Middleton**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Services Cost Review Commission – Averted Uncompensated Care –**  
3 **Assessment**

4 FOR the purpose of ~~authorizing~~ requiring the Health Services Cost Review  
5 Commission to assess a certain amount in hospital rates to reflect a certain  
6 reduction in hospital uncompensated care and to operate and administer the  
7 Maryland Health Insurance Plan; requiring, for the portion of the assessment  
8 related to a certain expansion of health care coverage, ~~requiring~~  
9 Commission to ensure that the assessment amount not exceed certain savings  
10 and requiring each hospital to remit its assessment amount to the Health Care  
11 Coverage Fund; requiring any savings not subject to the assessment to be  
12 shared among certain purchasers; requiring, for the portion of the assessment  
13 related to the Maryland Health Insurance Plan, ~~requiring~~ the Commission to  
14 ensure the assessment is ~~revenue neutral to each hospital and~~ included in the  
15 reasonable costs of each hospital when establishing the hospital's rates, is not

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**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.

*Italics indicate opposite chamber / conference committee amendments.*



1 considered in making certain determinations, and is not less than a certain  
 2 percentage of net patient revenue; requiring each hospital to remit certain  
 3 amounts to the Maryland Health Insurance Plan Fund at certain intervals;  
 4 prohibiting a certain assessment from exceeding a certain percentage of certain  
 5 hospital revenue; providing that funds generated from the assessment may be  
 6 used only for certain purposes; requiring the Commission to report certain  
 7 information to the Governor and General Assembly on or before a certain date  
 8 each year; repealing requirements for the Commission to determine certain  
 9 savings and assess a certain amount in hospital rates; repealing certain  
 10 requirements related to an assessment on hospitals for the operation and  
 11 administration of the Maryland Health Insurance Plan; requiring the Maryland  
 12 Health Care Commission to report certain information to the Governor and  
 13 General Assembly on or before a certain date each year; establishing the intent of  
 14 the General Assembly with regard to Medicaid day limits on hospital services;  
 15 ~~requiring that~~ authorizing funds generated from the a certain assessment under  
 16 ~~this Act be used only for certain purposes~~ to be used for a certain purpose  
 17 notwithstanding certain provisions of law; requiring the Health Services Cost  
 18 Review Commission to ensure that a certain assessment does not exceed certain  
 19 savings; requiring this Act to be abrogated under certain circumstances;  
 20 altering a certain statutory reference; and generally relating to a Health  
 21 Services Cost Review Commission assessment on hospitals.

22 BY repealing

23 Article – Health – General  
 24 Section 19–214(d)  
 25 Annotated Code of Maryland  
 26 (2005 Replacement Volume and 2007 Supplement)  
 27 (As enacted by Chapter 7 of the Acts of the General Assembly of the 2007  
 28 Special Session)

29 BY adding to

30 Article – Health – General  
 31 Section 19–214(d)  
 32 Annotated Code of Maryland  
 33 (2005 Replacement Volume and 2007 Supplement)  
 34 (As enacted by Chapter 7 of the Acts of the General Assembly of the 2007  
 35 Special Session)

36 BY repealing

37 Article – Health – General  
 38 Section 19–219(d) and (e)  
 39 Annotated Code of Maryland  
 40 (2005 Replacement Volume and 2007 Supplement)

41 BY repealing and reenacting, without amendments,

42 Article – Insurance  
 43 Section 14–504(a)(1)

1 Annotated Code of Maryland  
2 (2006 Replacement Volume and 2007 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Insurance  
5 Section 14–504(b)  
6 Annotated Code of Maryland  
7 (2006 Replacement Volume and 2007 Supplement)

8 BY repealing and reenacting, without amendments,  
9 Article – Insurance  
10 Section 15–12A–01(a) and (f)  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2007 Supplement)  
13 (As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special  
14 Session)

15 BY repealing and reenacting, with amendments,  
16 Article – Insurance  
17 Section 15–12A–05  
18 Annotated Code of Maryland  
19 (2006 Replacement Volume and 2007 Supplement)  
20 (As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special  
21 Session)

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

24 **Article – Health – General**

25 19–214.

26 [(d) (1) On or after July 1, 2009, if the expansion of health care coverage  
27 under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session  
28 reduces hospital uncompensated care, the Commission:

29 (i) Shall determine the savings realized in averted  
30 uncompensated care for each hospital individually; and

31 (ii) May assess an amount in each hospital's rates equal to a  
32 portion of the savings realized in averted uncompensated care for that hospital.

33 (2) The Commission shall ensure that any savings realized in averted  
34 uncompensated care not subject to the assessment under paragraph (1) of this  
35 subsection be shared among purchasers of hospital services in a manner that the  
36 Commission determines is most equitable.

1 (3) Each hospital shall remit any assessment under this subsection to  
2 the Health Care Coverage Fund established under § 15-701 of this article.]

3 (D) (1) ~~THE EACH YEAR, THE COMMISSION MAY SHALL~~ ASSESS A  
4 UNIFORM, BROAD-BASED, AND REASONABLE AMOUNT IN HOSPITAL RATES TO:

5 (I) REFLECT THE AGGREGATE REDUCTION IN HOSPITAL  
6 UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE  
7 COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF  
8 THE GENERAL ASSEMBLY; AND

9 (II) OPERATE AND ADMINISTER THE MARYLAND HEALTH  
10 INSURANCE PLAN ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE  
11 INSURANCE ARTICLE.

12 (2) (I) FOR THE PORTION OF THE ASSESSMENT UNDER  
13 PARAGRAPH (1)(I) OF THIS SUBSECTION:

14 1. THE COMMISSION SHALL ENSURE THAT THE  
15 ASSESSMENT AMOUNT DOES NOT EXCEED THE SAVINGS REALIZED IN AVERTED  
16 HOSPITAL UNCOMPENSATED CARE FROM THE HEALTH CARE COVERAGE  
17 EXPANSION; AND

18 2. EACH HOSPITAL SHALL REMIT ITS ASSESSMENT  
19 AMOUNT TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER §  
20 15-701 OF THIS ARTICLE.

21 (II) ANY SAVINGS REALIZED IN AVERTED UNCOMPENSATED  
22 CARE AS A RESULT OF THE EXPANSION OF HEALTH CARE COVERAGE UNDER  
23 CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL  
24 ASSEMBLY THAT ARE NOT SUBJECT TO THE ASSESSMENT UNDER PARAGRAPH  
25 (1)(I) OF THIS SUBSECTION SHALL BE SHARED AMONG PURCHASERS OF  
26 HOSPITAL SERVICES IN A MANNER THAT THE COMMISSION DETERMINES IS  
27 MOST EQUITABLE.

28 (3) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH  
29 (1)(II) OF THIS SUBSECTION:

30 (I) THE COMMISSION SHALL ENSURE THAT THE  
31 ASSESSMENT:

32 1. ~~SHALL BE REVENUE NEUTRAL TO EACH~~  
33 ~~HOSPITAL; AND~~

1                   **1. SHALL BE INCLUDED IN THE REASONABLE COSTS**  
2 **OF EACH HOSPITAL WHEN ESTABLISHING THE HOSPITAL'S RATES;**

3                   **2. MAY NOT BE CONSIDERED IN DETERMINING THE**  
4 **REASONABLENESS OF RATES OR HOSPITAL FINANCIAL PERFORMANCE UNDER**  
5 **COMMISSION METHODOLOGIES; AND**

6                   **3. MAY NOT BE LESS AS A PERCENTAGE OF NET**  
7 **PATIENT REVENUE THAN THE ASSESSMENT OF ~~3.182%~~ .8128% THAT WAS IN**  
8 **EXISTENCE ON JULY 1, 2007; AND**

9                   **(II) EACH HOSPITAL SHALL REMIT MONTHLY**  
10 **ONE-TWELFTH OF THE AMOUNT ASSESSED UNDER PARAGRAPH (1)(II) OF THIS**  
11 **SUBSECTION TO THE MARYLAND HEALTH INSURANCE PLAN FUND**  
12 **ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE, FOR**  
13 **THE PURPOSE OF OPERATING AND ADMINISTERING THE MARYLAND HEALTH**  
14 **INSURANCE PLAN.**

15                   **(4) THE ASSESSMENT AUTHORIZED UNDER PARAGRAPH (1) OF**  
16 **THIS SUBSECTION MAY NOT EXCEED 3% IN THE AGGREGATE OF ANY HOSPITAL'S**  
17 **TOTAL NET REGULATED PATIENT REVENUE.**

18                   **(5) FUNDS GENERATED FROM THE ASSESSMENT UNDER THIS**  
19 **SUBSECTION MAY BE USED ONLY TO:**

20                   **(I) SUPPLEMENT COVERAGE UNDER THE MEDICAL**  
21 **ASSISTANCE PROGRAM BEYOND THE ELIGIBILITY REQUIREMENTS IN**  
22 **EXISTENCE ON JANUARY 1, 2008; AND**

23                   **(II) PROVIDE FUNDING FOR THE OPERATION AND**  
24 **ADMINISTRATION OF THE MARYLAND HEALTH INSURANCE PLAN.**

25                   **(E) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSION SHALL**  
26 **REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**  
27 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING**  
28 **INFORMATION:**

29                   **(1) THE AGGREGATE REDUCTION IN HOSPITAL**  
30 **UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE**  
31 **COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE GENERAL ASSEMBLY OF**  
32 **THE 2007 SPECIAL SESSION; AND**

33                   **(2) THE NUMBER OF INDIVIDUALS WHO ENROLLED IN**  
34 **MEDICAID AS A RESULT OF THE CHANGE IN ELIGIBILITY STANDARDS UNDER §**

1 15-103(A)(2)(IX) AND (X) OF THE HEALTH - GENERAL ARTICLE AND THE  
2 EXPENSES ASSOCIATED WITH THE UTILIZATION OF HOSPITAL INPATIENT CARE  
3 BY THESE INDIVIDUALS.

4 19-219.

5 [(d) (1) In this subsection, "base hospital rate" means the aggregate value  
6 to participating commercial health insurance carriers of the substantial, available, and  
7 affordable coverage purchaser differential as determined by the Commission for the  
8 calendar year 2002.

9 (2) The Commission, in accordance with this subsection, shall  
10 calculate the amount of funds necessary to operate and administer the Maryland  
11 Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

12 (3) (i) The Commission shall determine the percentage of total net  
13 patient revenue received in calendar year 2002 by all hospitals for which the  
14 Commission approved hospital rates that is represented by the base hospital rate.

15 (ii) The percentage under subparagraph (i) of this paragraph  
16 shall be determined by dividing the base hospital rate by the total net patient revenue  
17 received in calendar year 2002 by all hospitals for which the Commission approved  
18 hospital rates.

19 (4) On or before May 1 of each year, the Commission shall:

20 (i) Determine the amount of funding to allocate to the  
21 Maryland Health Insurance Plan by multiplying the percentage determined under  
22 paragraph (3) of this subsection by the value of the total net patient revenues received  
23 in the immediately preceding State fiscal year by all hospitals for which rates were  
24 approved by the Commission; and

25 (ii) Determine the share of total funding owed by each hospital  
26 for which rates have been approved by the Commission proportionate to the  
27 percentage of the base hospital rate attributable to each hospital.

28 (5) Each hospital shall remit monthly one-twelfth of the amount  
29 determined under paragraph (4)(ii) of this subsection to the Maryland Health  
30 Insurance Plan Fund.]

31 [(e) (1) The Commission shall adjust hospital rates to ensure that the  
32 assessment collected under subsection (d) of this section is revenue neutral to each  
33 hospital.

34 (2) The Commission may not consider the assessment required under  
35 subsection (d) of this section in determining:

- 1 (i) The reasonableness of rates under this section; or  
2 (ii) Hospital financial performance.]

3 **Article – Insurance**

4 14–504.

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

6 (b) The Fund shall consist of:

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

8 (2) except as provided in § 14–513(a) of this subtitle, premiums paid  
9 by enrollees of the Senior Prescription Drug Assistance Program;

10 (3) money collected in accordance with [§ 19–219] § **19–214(D)** of the  
11 Health – General Article;

12 (4) money deposited by a carrier in accordance with § 14–513 of this  
13 subtitle;

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

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

17 (7) premium tax revenue collected under § 14–107 of this title;

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

20 (9) money donated to the Fund; and

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

22 15–12A–01.

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

24 (f) “Program” means the Small Employer Health Benefit Plan Premium  
25 Subsidy Program.

26 15–12A–05.

1 On or before January 1, 2009, and annually thereafter, the Commission shall  
 2 report to the Governor and, in accordance with § 2-1246 of the State Government  
 3 Article, the General Assembly on:

4 (1) the implementation of the Program; AND

5 (2) THE UNCOMPENSATED CARE SAVINGS DERIVED FROM THE  
 6 PROGRAM AND THE METHODOLOGY USED BY THE COMMISSION TO TRACK THE  
 7 UNCOMPENSATED CARE SAVINGS.

8 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
 9 General Assembly that the Department of Health and Mental Hygiene policy of  
 10 imposing Medicaid day limits on hospital services shall cease effective July 1, 2008.

11 SECTION 3. AND BE IT FURTHER ENACTED, That ~~funds generated from the~~  
 12 ~~assessment under this Act may be used only to:~~

13 ~~(1) supplement coverage under the Medical Assistance Program~~  
 14 ~~beyond the eligibility requirements in existence on January 1, 2008;~~

15 ~~(2) provide funding for the Maryland Health Insurance Plan; and~~

16 ~~(3) assist in eliminating Medicaid day limits on hospital services~~  
 17 ~~effective July 1, 2008 notwithstanding § 19-214(d)(1), (2), and (5) of the~~  
 18 ~~Health – General Article, as enacted by Section 1 of this Act, § 15-701 of the~~  
 19 ~~Health – General Article, or a delay in the expansion of health care coverage beyond~~  
 20 ~~July 1, 2008, under Chapter 7 of the Acts of the 2007 Special Session of the General~~  
 21 ~~Assembly;~~

22 (1) funds generated from the assessment under § 19-214(d)(1)(i) of the  
 23 Health – General Article, as enacted by Section 1 of this Act, may be used to pay for  
 24 the elimination of Medicaid day limits on hospital services for the period of July 1,  
 25 2008, through December 31, 2008; and

26 (2) the Health Services Cost Review Commission shall ensure that the  
 27 assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by  
 28 Section 1 of this Act, does not exceed the savings realized in averted hospital  
 29 uncompensated care from:

30 (i) the health care coverage expansion; and

31 (ii) the elimination of Medicaid day limits on hospital services  
 32 for the period of July 1, 2008, through December 31, 2008.

33 SECTION 4. AND BE IT FURTHER ENACTED, That if the State's Medicare  
 34 waiver under § 1814(b) of the federal Social Security Act terminates or the provisions



1 of 42 C.F.R. 433.68 are changed to prohibit the assessment authorized under this Act,  
2 this Act shall be abrogated and of no further force and effect.

3 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 2008.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.