

CHAPTER 329

(House Bill 1522)

AN ACT concerning

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

FOR the purpose of altering the allocation by the Maryland Insurance Commissioner of certain revenue in the Maryland Health Care Provider Rate Stabilization Fund to the Medical Assistance Program Account; requiring the Commissioner to allocate certain revenue in the Fund to the ~~Office of the Comptroller~~ ~~Department of Health and Mental Hygiene~~ Office of the Comptroller in certain fiscal years for a certain purpose; providing that certain revenue in the Fund after a certain fiscal year shall accrue to the Medical Assistance Program Account; expanding the health care providers who are eligible to receive certain payments from the Medical Assistance Program Account to include a health care practitioner licensed under the Maryland Dentistry Act; including the Maryland State Dental Association and the Maryland Dental Society among the groups that determine, in consultation with the Secretary of Health and Mental Hygiene, health care provider rate increases payable from the Fund; declaring the intent of the General Assembly about the expenditure of certain funds; defining a certain term; and generally relating to allocations to and disbursements from the Medical Assistance Program Account in the Maryland Health Care Provider Rate Stabilization Fund.

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

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

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

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

(b) The purposes of the Fund are to:

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

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

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

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

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

(c) The Fund shall consist of:

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

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

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

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

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

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

(g) The Fund comprises:

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

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

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

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

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

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

19-803.

(a) The Commissioner shall administer the Fund.

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

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

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

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

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

(ii) in fiscal year 2006:

1. \$52,000,000 to the Rate Stabilization Account to pay 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 2011:**

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, UP TO \$300,000 EACH YEAR TO THE OFFICE OF THE COMPTROLLER TO PAY FOR MAILINGS OF APPLICATIONS AND ENROLLMENT INSTRUCTIONS FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND CHILDREN'S HEALTH PROGRAM FOR FAMILIES WITH CHILDREN; AND

2. THE REMAINING REVENUE TO THE MEDICAL ASSISTANCE PROGRAM ACCOUNT; AND

(VII) IN FISCAL YEAR 2012 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~~ **ACCUE 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, AND THE MARYLAND DENTAL SOCIETY.~~

(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 it is the intent of the General Assembly that, until fee-for-service health care provider rates paid by the Medical Assistance Program and managed care organization health care provider rates

are at a level of rates paid to similar providers for the same services under the federal Medicare fee schedule, funds in the Medical Assistance Program Account established under Title 19, Subtitle 8 of the Insurance Article should be used only to maintain and increase health care provider rates under the Program and not to otherwise generally support the operations of the Program.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.