

CHAPTER 692

(House Bill 1391)

AN ACT concerning

Kids First Act

FOR the purpose of requiring the Comptroller to send a certain notice regarding eligibility for the Maryland Medical Assistance Program or the Maryland Children's Health Program to a ~~certain~~ taxpayer if certain income reported on a tax return for a certain tax year does not exceed a ~~certain amount~~ income eligibility standard; requiring that the notice be developed by the Department of Health and Mental Hygiene; requiring a taxpayer to report on the income tax return in a certain form the presence or absence of certain health care coverage for each dependent child; providing that a taxpayer may not be penalized for not providing certain information or providing certain information that is inaccurate under certain circumstances; requiring the Comptroller, under certain circumstances, to send a taxpayer applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program; prohibiting the Comptroller from sending a certain notice and information to certain taxpayers; ~~requiring the Comptroller to adopt certain regulations~~; requiring the Department of Health and Mental Hygiene, in consultation with certain other State agencies, to study, make recommendations, and report on health care coverage and enrollment for certain children; requiring the Comptroller to publicize ~~widely the requirements of this Act for a certain purpose~~ the availability of the Maryland Medical Assistance Program and the Maryland Children's Health Program to certain taxpayers; ~~prohibiting a taxpayer from deducting a certain exemption for a dependent child unless the dependent child had health care coverage; providing for certain exceptions~~ requiring the Maryland Health Care Commission and the Office of the Comptroller to study and make recommendations on the implementation of a certain health care coverage mandate and to report on their study and recommendations to the Governor and the General Assembly on or before certain dates conduct a certain study annually and report on the study to the Governor and the General Assembly on or before a certain date each year; requiring the transfer of certain funds from the Maryland Health Care Provider Rate Stabilization Fund to the Office of the Comptroller for a certain purpose; defining a certain ~~terms~~ term; making a certain technical correction; ~~providing for the application of certain provisions of this Act; providing for delayed effective dates for certain provisions~~ providing for the termination of this Act; and generally relating to health care coverage ~~and income tax exemptions~~ for dependent children.

BY repealing and reenacting, with amendments,

Article – Insurance
Section 15–1301(f)(1)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–211
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)
(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007
Special Session)

BY adding to
Article – Tax – General
Section 10–211.1
Annotated Code of Maryland
(2004 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

15–1301.

- (f) (1) “Creditable coverage” means coverage of an individual under:
- (i) an employer sponsored plan;
 - (ii) a health benefit plan;
 - (iii) Part A or Part B of Title XVIII of the Social Security Act;
 - (iv) Title XIX **OR TITLE XXI** of the Social Security Act, other than coverage consisting solely of benefits under § 1928 of that Act;
 - (v) Chapter 55 of Title 10 of the United States Code;
 - (vi) a medical care program of the Indian Health Service or of a tribal organization;
 - (vii) a State health benefits risk pool;
 - (viii) a health plan offered under the Federal Employees Health Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;

(ix) a public health plan as defined by federal regulations authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L. 104–191; or

(x) a health benefit plan under § 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).

Article – Tax – General

10–211.

(a) Except as provided in subsection (b) of this section, whether or not a federal return is filed, to determine Maryland taxable income, an individual other than a fiduciary may deduct as an exemption:

(1) \$3,200 for each exemption that the individual may deduct in the taxable year to determine federal taxable income under § 151 of the Internal Revenue Code;

(2) an additional \$3,200 for each dependent, as defined in § 152 of the Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;

(3) an additional \$1,000 if the individual, on the last day of the taxable year, is at least 65 years old; and

(4) an additional \$1,000 if the individual, on the last day of the taxable year, is a blind individual, as described in § 10–208(c) of this subtitle.

(b) (1) If an individual other than one described in [subsection (c) of this section] **PARAGRAPH (2) OF THIS SUBSECTION** has federal adjusted gross income for the taxable year greater than \$100,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) \$2,400 if federal adjusted gross income for the taxable year does not exceed \$125,000;

(ii) \$1,800 if federal adjusted gross income for the taxable year is greater than \$125,000 but not greater than \$150,000;

(iii) \$1,200 if federal adjusted gross income for the taxable year is greater than \$150,000 but not greater than \$200,000; and

(iv) \$600 if federal adjusted gross income for the taxable year is greater than \$200,000.

(2) If a married couple filing a joint return or an individual described in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse has federal adjusted gross income for the taxable year greater than \$150,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) \$2,400 if federal adjusted gross income for the taxable year does not exceed \$175,000;

(ii) \$1,800 if federal adjusted gross income for the taxable year is greater than \$175,000 but not greater than \$200,000;

(iii) \$1,200 if federal adjusted gross income for the taxable year is greater than \$200,000 but not greater than \$250,000; and

(iv) \$600 if federal adjusted gross income for the taxable year is greater than \$250,000.

10-211.1.

(A) (1) IN THIS SECTION ~~THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "APPLICABLE POVERTY INCOME LEVEL" MEANS THE AMOUNT SPECIFIED IN THE POVERTY INCOME STANDARD THAT CORRESPONDS TO THE NUMBER OF EXEMPTIONS THAT THE TAXPAYER IS ALLOWED AND CLAIMS UNDER § 10-211 OF THIS SUBTITLE.~~

~~(3) "HEALTH, "HEALTH CARE COVERAGE" MEANS CREDITABLE COVERAGE AS DEFINED IN § 15-1301 OF THE INSURANCE ARTICLE.~~

~~(4) "POVERTY INCOME STANDARD" MEANS THE MOST RECENT POVERTY INCOME GUIDELINES PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, AVAILABLE AS OF JULY 1 OF THE TAXABLE YEAR.~~

(5) ~~"TAXPAYER" MEANS:~~

~~(I) AN INDIVIDUAL FILING AN INDIVIDUAL RETURN; OR~~

~~(II) A MARRIED COUPLE FILING A JOINT RETURN.~~

(B) (1) IF THE ~~FEDERAL ADJUSTED GROSS~~ INCOME, REPORTED ON THE TAX RETURN FOR ~~THE PREVIOUS TAXABLE YEAR~~ TAX YEAR 2007, OF A

TAXPAYER WITH A DEPENDENT CHILD DOES NOT EXCEED ~~300%~~ OF THE APPLICABLE POVERTY INCOME LEVEL THE HIGHEST INCOME ELIGIBILITY STANDARD FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM, THE COMPTROLLER SHALL SEND A NOTICE TO THE TAXPAYER:

~~(1)~~ (I) INDICATING THAT THE DEPENDENT CHILD MAY BE ELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

~~(2)~~ (II) PROVIDING INFORMATION ABOUT HOW TO ENROLL IN THE PROGRAMS.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(C) ~~(1) A TAXPAYER MAY NOT DEDUCT AN EXEMPTION FOR A DEPENDENT CHILD UNDER § 10-211 OF THIS SUBTITLE UNLESS THE DEPENDENT CHILD FOR WHOM THE EXEMPTION IS CLAIMED:~~

~~(I) HAD HEALTH CARE COVERAGE ON DECEMBER 31 OF THE TAXABLE YEAR; AND~~

~~(II) DID NOT HAVE A BREAK IN HEALTH CARE COVERAGE OF 63 DAYS OR MORE DURING THE TAXABLE YEAR.~~

~~(2) THE COMPTROLLER SHALL PROVIDE FOR EXCEPTIONS TO PARAGRAPH (1) OF THIS SUBSECTION FOR A TAXPAYER:~~

~~(I) JUST ENTERING THE WORKFORCE;~~

~~(II) RECENTLY MOVING INTO THE STATE;~~

~~(III) WHO IS UNABLE TO OBTAIN HEALTH CARE COVERAGE FOR THE DEPENDENT CHILD BECAUSE THE DEPENDENT CHILD:~~

~~1. IS NOT ELIGIBLE FOR COVERAGE THROUGH:~~

~~A. ANY EMPLOYER SPONSORED PLAN AVAILABLE TO THE TAXPAYER;~~

~~B. THE MARYLAND MEDICAL ASSISTANCE PROGRAM; OR~~

~~C. THE MARYLAND CHILDREN'S HEALTH PROGRAM;~~
~~2. HAS BEEN TURNED DOWN FOR HEALTH BENEFITS~~
~~IN AN INDIVIDUAL PLAN; AND~~

~~3. HAS BEEN UNABLE TO ENROLL IN THE MARYLAND~~
~~HEALTH INSURANCE PLAN BECAUSE THE MARYLAND HEALTH INSURANCE~~
~~PLAN HAS REACHED ITS ENROLLMENT CAPACITY; OR~~

~~(IV) WHO OBJECTS TO HEALTH INSURANCE ON RELIGIOUS~~
~~GROUND, PROVIDED THAT THE TAXPAYER FILES A SWORN AFFIDAVIT WITH~~
~~THE TAX RETURN STATING THAT THE TAXPAYER'S SINCERELY HELD RELIGIOUS~~
~~BELIEFS ARE THE BASIS OF THE TAXPAYER'S REFUSAL TO OBTAIN AND~~
~~MAINTAIN HEALTH CARE COVERAGE FOR THE DEPENDENT CHILD.~~

~~(3)~~ (1) (I) THE BEGINNING WITH THE TAX RETURN FOR TAX
YEAR 2008, THE TAXPAYER SHALL REPORT ON THE INCOME TAX RETURN, IN
THE FORM REQUIRED BY THE COMPTROLLER, THE PRESENCE OR ABSENCE OF
HEALTH CARE COVERAGE THAT MEETS THE REQUIREMENTS OF THIS
SUBSECTION FOR EACH DEPENDENT CHILD FOR WHOM AN EXEMPTION IS
CLAIMED.

(II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
TAXPAYER MAY NOT BE PENALIZED IN ANY MANNER FOR NOT PROVIDING THE
INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH OR
PROVIDING INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
PARAGRAPH THAT IS INACCURATE.

~~(4)~~ (2) (I) IF THE TAXPAYER INDICATES ON THE INCOME TAX
RETURN FOR TAX YEAR 2008 OR 2009 THAT A DEPENDENT CHILD DOES NOT
HAVE HEALTH CARE COVERAGE, AND THE FEDERAL ADJUSTED GROSS INCOME
ON THE TAXPAYER'S TAX RETURN DOES NOT EXCEED 300% OF THE APPLICABLE
POVERTY INCOME LEVEL THE HIGHEST LEVEL INCOME ELIGIBILITY STANDARD
FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE MARYLAND
CHILDREN'S HEALTH PROGRAM, THE COMPTROLLER SHALL SEND THE
TAXPAYER APPLICATIONS AND ENROLLMENT INSTRUCTIONS FOR THE
MARYLAND MEDICAL ASSISTANCE PROGRAM AND THE MARYLAND
CHILDREN'S HEALTH PROGRAM, WITH INSTRUCTIONS.

(II) THE COMPTROLLER MAY NOT SEND ANY NOTICE OR
INFORMATION WITH THE APPLICATIONS AND ENROLLMENT INSTRUCTIONS

REQUIRED UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH, OTHER THAN A NOTICE DEVELOPED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

~~(5) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene, in consultation with the Maryland Insurance Administration and the Maryland Health Care Commission, shall:

(1) study and make recommendations for ~~determining the effectiveness for implementation of an auto enrollment system into the Maryland Medical Assistance Program and the Maryland Children's Health Program for eligible children~~ improving the processes for determining eligibility for the Maryland Medical Assistance Program and the Maryland Children's Health Program, including the feasibility of facilitating outreach or auto-enrollment through linkages with other electronic data sources;

(2) (i) study and make recommendations for increasing the availability and affordability of health care coverage for children with family income that exceeds 300% of the applicable poverty income level;

(ii) include as options in the study and recommendations:

1. buying into the Maryland Children's Health Program;
2. developing a State-sponsored health care coverage program with fewer mandates than the Maryland Children's Health Program; and
3. establishing a health benefit plan with child-appropriate benefits; and

(3) on or before January 1, 2009, report on its studies and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That:

~~(a) The Maryland Health Care Commission and the Office of the Comptroller shall study and make recommendations on the implementation of a health care coverage mandate for dependent children by 2011, if more than 3% of children in the State are estimated to be uninsured.~~

~~(b) The Commission and the Office shall incorporate in the study and recommendations:~~

(a) The Maryland Health Care Commission and the Office of the Comptroller annually shall study:

(1) the number of Maryland families, by income level, claiming the State income tax exemption for dependent children;

(2) the value to a family of the State income tax exemption for dependent children, by income level; and

(3) the effect of the provisions of § 10-211.1 of the Tax – General Article, as enacted by Section 1 of this Act, on the number and percentage of children in the State who are uninsured; and

(4) issues relating to the role of the State income tax exemption for dependent children in any mandate requiring parents to obtain health care coverage for their children, including:

(i) the need for special rules for noncustodial parents;

(ii) the need for changes in the information collected on the income tax form;

(iii) the manner in which a mandate should be enforced; and

(iv) any needed exceptions for taxpayers to a mandate, such as an exception for a taxpayer who:

1. is a recent resident of the State;

2. is just entering the workforce;

3. is in between jobs;

4. has been turned down for private insurance and is unable to enroll in the Maryland Health Insurance Plan;

5. claims a religious exception; or

6. is unable to obtain affordable private health insurance.

(e) (b) The Commission and the Office shall:

(1) report on their study and recommendations findings from the study required under this section to the Governor and, in accordance with § 2-1246 of the

State Government Article, the General Assembly on or before January 1, 2010; and of each year.

~~(2) update the report on or before January 1, 2011, with any new information available.~~

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That the Comptroller shall publicize widely the requirements of this Act to provide an adequate opportunity for taxpayers to obtain health care coverage for their~~ the availability of the Maryland Medical Assistance Program and the Maryland Children's Health Program to taxpayers with dependent children.

~~SECTION 4. AND BE IT FURTHER ENACTED, That § 10-211.1(e)(1) and (2) of the Tax General Article, as enacted by Section 1 of this Act, shall take effect January 1, 2011, and shall be applicable to all taxable years beginning after December 31, 2010.~~

SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, for fiscal years 2010 and 2011, up to \$300,000 each year shall be transferred from the Maryland Health Care Provider Rate Stabilization Fund established under Title 19, Subtitle 8 of the Insurance Article to the Office of the Comptroller to pay *only* for mailings of applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program, in accordance with § 10-211.1 of the Tax – General Article, as enacted by Section 1 of this Act.

~~SECTION 5. 6. AND BE IT FURTHER ENACTED, That § 10-211.1(b) and (e)(3) and (4) of the Tax General Article, as enacted by Section 1 of this Act shall take effect January 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2008.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Sections 4 and 5 of this Act, this Act shall take effect July 1, 2008. It shall remain effective for a period of 3 years and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 22, 2008.