

CHAPTER 558

(House Bill 1492)

AN ACT concerning

Senior Prescription Drug Assistance Program – Subsidy for Medicare Part D Coverage Gap and Sunset Extension

FOR the purpose of requiring a certain corporation, beginning on a certain date and under certain circumstances, to transfer a certain amount of money to the separate account for the Senior Prescription Drug Assistance Program within the Maryland Health Insurance Plan; authorizing the corporation not to make the transfer, under certain circumstances; providing for a certain exception; requiring the Program to provide a certain subsidy for the Medicare Part D coverage gap, subject to the availability of certain funds; requiring the Board of Directors of the Maryland Health Insurance Plan to determine annually the amount of the subsidy; requiring the segregated account for the Senior Prescription Drug Assistance Program to include certain money deposited by a nonprofit health service plan; repealing a certain source of funds for the Maryland Health Insurance Plan Fund; altering requirements for a certain segregated account; altering requirements for the amount a nonprofit health service plan is required to deposit to the Fund; requiring a nonprofit health service plan to deposit to the Maryland Health Insurance Plan Fund the amount required for the Medicare Part D coverage gap subsidy; extending the termination date of the Senior Prescription Drug Assistance Program; defining a certain term; making technical corrections; and generally relating to a subsidy for the Medicare Part D coverage gap for enrollees of the Senior Prescription Drug Assistance Program.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 14–102(h), 14–501(i) and (j), 14–504(b), 14–512(c) and (e), and 14–513

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Insurance

Section 14–106.2 and 14–501(i)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 14–501(a), 14–504 (a)(1) and (e), and 14–512(a) and (b)

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

BY repealing and reenacting, with amendments,

Chapter 153 of the Acts of the General Assembly of 2002, as amended by Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of the Acts of the General Assembly of 2006, and Chapter 509 of the Acts of the General Assembly of 2007

Section 13

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

Article – Insurance

14–102.

(h) The provisions of subsections (d) and (e) of this section and §§ 14–106, 14–106.1, **14–106.2**, 14–115(d), (e), (f), and (g), and 14–139(d) and (e) of this subtitle do not apply to a nonprofit health service plan that insures between 1 and 10,000 covered lives in Maryland or issues contracts for only one of the following services:

- (1) podiatric;
- (2) chiropractic;
- (3) pharmaceutical;
- (4) dental;
- (5) psychological; or
- (6) optometric.

14–106.2.

(A) THIS SECTION APPLIES TO A CORPORATION THAT IS:

(1) ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN; AND

(2) THE SOLE MEMBER OF A CORPORATION ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

(B) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, BEGINNING JANUARY 1, 2009, AND EACH JANUARY 1 THEREAFTER, IF A CORPORATION SUBJECT TO THIS SECTION HAS A SURPLUS THAT EXCEEDS 800% OF THE CONSOLIDATED RISK-BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, THE CORPORATION SHALL TRANSFER \$4,000,000 TO THE SEPARATE ACCOUNT FOR THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM WITHIN THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER § 14-504 OF THIS TITLE.

(C) A CORPORATION IS NOT REQUIRED TO MAKE THE TRANSFER UNDER SUBSECTION (B) OF THIS SECTION IF:

(1) THE SURPLUS OF THE CORPORATION DOES NOT EXCEED 800% OF THE CONSOLIDATED RISK-BASED CAPITAL REQUIREMENTS APPLICABLE TO THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR; OR

(2) THE FEDERAL GOVERNMENT ELIMINATES THE COVERAGE GAP IN THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT.

14-501.

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

(I) “MEDICARE PART D COVERAGE GAP” MEANS THE GAP IN COVERAGE UNDER MEDICARE PART D:

(1) ABOVE THE INITIAL COVERAGE LIMIT AND BEFORE CATASTROPHIC COVERAGE BEGINS; AND

(2) DURING WHICH AN INDIVIDUAL ENROLLED IN MEDICARE PART D IS RESPONSIBLE FOR 100% COINSURANCE COSTS.

[(i)] (J) “Plan” means the Maryland Health Insurance Plan.

[(j)] (K) “Plan of operation” means the articles, bylaws, and operating rules and procedures adopted by the Board in accordance with § 14-503 of this subtitle.

14-504.

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

(b) The Fund shall consist of:

- (1) premiums for coverage that the Plan issues;
- [(2) except as provided in § 14–513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;
- (3)] **(2)** money collected in accordance with § 19–219 of the Health – General Article;
- [(4)] **(3)** money deposited by a [carrier] **NONPROFIT HEALTH SERVICE PLAN** in accordance with § 14–513 of this subtitle;
- [(5)] **(4)** income from investments that the Board makes or authorizes on behalf of the Fund;
- [(6)] **(5)** interest on deposits or investments of money from the Fund;
- [(7)] **(6)** premium tax revenue collected under § 14–107 of this title;
- [(8)] **(7)** money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;
- [(9)] **(8)** money donated to the Fund; and
- [(10)] **(9)** money awarded to the Fund through grants.

(e) (1) In addition to the operation and administration of the Plan, the Fund shall be used for the operation and administration of the Senior Prescription Drug Assistance Program established under Part II of this subtitle.

(2) The Board shall maintain separate accounts within the Fund for the Senior Prescription Drug Assistance Program and the Maryland Health Insurance Plan.

(3) Accounts within the Fund shall contain those moneys that are intended to support the operation of the Program for which the account is designated.

14–512.

(a) The Program shall:

(1) provide a prescription drug benefit subsidy, as determined by the Board, that may pay all or some of the deductibles, coinsurance payments, premiums, and copayments under the federal Medicare Part D Pharmaceutical Assistance Program for enrollees of the Program; and

(2) provide the subsidy to the maximum number of individuals eligible for enrollment in the Program, subject to the moneys available in the segregated account under § 14–504 of this subtitle.

(b) The Program may limit payment of any subsidy by paying the subsidy only on behalf of eligible individuals enrolled in a Medicare Part D Prescription Drug Plan or Medicare Advantage Plan that coordinates with the Program in accordance with federal requirements.

(c) The Program:

(1) may annually provide an additional subsidy, up to the full amount of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify for a partial federal low-income subsidy; **AND**

(2) **SHALL ANNUALLY PROVIDE AN ADDITIONAL SUBSIDY UP TO THE FULL AMOUNT OF THE MEDICARE PART D COVERAGE GAP, SUBJECT TO THE AVAILABILITY OF:**

(I) **FUNDS PROVIDED UNDER § 14–106.2 OF THIS TITLE;**
AND

(II) **ANY OTHER FUNDS AVAILABLE FOR THIS PURPOSE.**

(e) The Board shall determine annually:

(1) the number of individuals to be enrolled in the Program;

(2) the amount of subsidy to be provided under [subsection (a)] **SUBSECTIONS (A) AND (C)(2)** of this section; and

(3) the amount of any additional subsidy provided under subsection [(c)] **(C)(1)** of this section.

14–513.

(a) [As determined by the Board, premiums collected] **FUNDS** for the Program shall be deposited:

(1) to a segregated account in the Fund established under § 14–504 of this subtitle; or

(2) to a separate account for the Program established by the Program Administrator.

(b) [In addition to premium income, the] **THE** segregated account shall include:

- (1) interest and investment income attributable to Program funds; and
- (2) money deposited to the account by a nonprofit health service plan, in accordance with [subsection (c)] **SUBSECTIONS (C) AND (D)** of this section.

(c) (1) On or before April 1, 2003 and quarterly thereafter, the nonprofit health service plan required to subsidize the Program under § 14–106(d) of this title shall deposit to the Fund under § 14–504 of this subtitle the amount[, in excess of premiums collected,] that is necessary to operate and administer the Program for the following quarter.

(2) The amount deposited shall be determined by the Board based on enrollment, expenditures, and revenue for the previous year.

(3) The amount required by the Board under paragraph (2) of this subsection may not exceed the amounts specified in § 14–106(e) of this title.

(4) The Board shall provide funds to the Administrator, in accordance with the terms of the contract with the Administrator, for the cost of the State subsidy and administrative expenses incurred on behalf of the Program.

(D) A NONPROFIT HEALTH SERVICE PLAN SHALL DEPOSIT IN THE FUND UNDER § 14–504 OF THIS SUBTITLE THE AMOUNT REQUIRED UNDER § 14–106.2 OF THIS TITLE TO BE USED FOR THE PURPOSE OF SUBSIDIZING THE MEDICARE PART D COVERAGE GAP.

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, and Chapter 509 of the Acts of 2007

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) No later than June 1, 2003, the Secretary of Health and Mental Hygiene and the carrier that is required to offer the Short–Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer all Plan records, data, and other information necessary to operate and administer the Senior Prescription Drug Program established under this Act to the Board of the Maryland Health Insurance Plan.

(2) Each individual enrolled in the Short–Term Prescription Drug Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on June 30, 2003 shall, at the option of the enrollee and subject to the payment of all necessary premiums and copayments, be automatically enrolled in the Senior Prescription Drug Program established under this Act.

(3) It is the intent of the General Assembly that the transition of enrollees from the Short-Term Prescription Drug Subsidy Plan to the Senior Prescription Drug Program be accomplished without interruption of benefits for enrollees.

(4) Subsidies shall be offered to enrollees through the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of the Insurance Article beginning January 1, 2006. At the end of December 31, [2009] 2010, the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

(5) Beginning April 1, 2003, the carrier required to offer the Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article and the Senior Prescription Drug Assistance Program under Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning January 1, 2006, the Program, using the value of the carrier’s premium tax exemption.

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

Approved by the Governor, May 22, 2008.