

SENATE BILL 456

C3

2lr2080
CF 2lr0901

By: **Senator Middleton**

Introduced and read first time: February 2, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Health Benefit Plan Premium Rate Review**

3 FOR the purpose of prohibiting a carrier that issues or delivers a health benefit plan
4 in the State from charging a premium to certain persons or changing a premium
5 before the applicable premium rate or premium rate change is filed with and
6 approved by the Maryland Insurance Commissioner; requiring any applicable
7 premium rate or premium rate change to be filed with the Commissioner at
8 least a certain period of time before its proposed effective date; requiring the
9 Commissioner to require a carrier to provide certain information under certain
10 circumstances; extending the period of time before the proposed effective date of
11 a premium rate filing under certain circumstances; authorizing the
12 Commissioner to authorize an earlier or later effective date of a premium rate
13 filing; providing that a premium rate filing is deemed approved unless
14 disapproved by the Commissioner within a certain period of time; requiring the
15 Commissioner to disapprove or modify a proposed premium rate filing under
16 certain circumstances; requiring the Commissioner to consider certain factors in
17 determining whether to disapprove or modify a premium rate filing; requiring
18 each premium rate filing and any supporting information filed to be open to
19 public inspection; authorizing a person to obtain copies of a premium rate filing
20 and any supporting information; authorizing the Commissioner to require a
21 carrier to demonstrate that its premium rates and method for setting premium
22 rates for a health benefit plan are not excessive in relation to benefits,
23 notwithstanding the Commissioner's previous approval; requiring the
24 Commissioner to issue a certain order to a carrier under certain circumstances;
25 requiring the Commissioner to hold a hearing before issuing a certain order and
26 to provide written notice of the hearing; providing that an order does not affect
27 a certain health benefit plan; providing that each decision or finding of the
28 Commissioner about premium rates is subject to judicial review; providing that
29 a nonprofit health service plan and a health maintenance organization that
30 offer a certain health benefit plan are subject to certain provisions of law;
31 establishing the provisions of law that prevail if there is a conflict between

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain provisions of law; providing for the application of this Act; defining
2 certain terms; and generally relating to health benefit plan premium rate
3 review under health insurance.

4 BY adding to

5 Article – Insurance

6 Section 11–601 through 11–603 to be under the new subtitle “Subtitle 6. Health
7 Benefit Plan Premium Rate Review”

8 Annotated Code of Maryland

9 (2011 Replacement Volume)

10 BY repealing and reenacting, with amendments,

11 Article – Insurance

12 Section 14–126(a)

13 Annotated Code of Maryland

14 (2011 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article – Health – General

17 Section 19–713(a)

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2011 Supplement)

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

22 **Article – Insurance**

23 **SUBTITLE 6. HEALTH BENEFIT PLAN PREMIUM RATE REVIEW.**

24 **11–601.**

25 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 **(B) “CARRIER” MEANS A PERSON THAT:**

28 **(1) OFFERS A HEALTH BENEFIT PLAN IN THE STATE; AND**

29 **(2) IS:**

30 **(I) AN INSURER;**

31 **(II) A NONPROFIT HEALTH SERVICE PLAN; OR**

32 **(III) A HEALTH MAINTENANCE ORGANIZATION.**

1 (C) “CONTRACT HOLDER” MEANS A PERSON TO WHICH A CARRIER HAS
2 ISSUED A HEALTH BENEFIT PLAN.

3 (D) (1) “HEALTH BENEFIT PLAN” MEANS:

4 (I) A HEALTH INSURANCE CONTRACT, A NONPROFIT
5 HEALTH SERVICE PLAN CONTRACT, OR A HEALTH MAINTENANCE
6 ORGANIZATION CONTRACT THAT INCLUDES BENEFITS FOR MEDICAL CARE; OR

7 (II) A CERTIFICATE OF HEALTH INSURANCE ISSUED OR
8 DELIVERED TO A MARYLAND RESIDENT UNDER A CONTRACT ISSUED TO AN
9 ASSOCIATION LOCATED IN THE STATE OR ANY OTHER STATE.

10 (2) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:

11 (I) ONE OR MORE, OR ANY COMBINATION OF THE
12 FOLLOWING:

13 1. COVERAGE ONLY FOR ACCIDENT OR DISABILITY
14 INCOME INSURANCE;

15 2. COVERAGE ISSUED AS A SUPPLEMENT TO
16 LIABILITY INSURANCE;

17 3. LIABILITY INSURANCE, INCLUDING GENERAL
18 LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

19 4. WORKERS’ COMPENSATION OR SIMILAR
20 INSURANCE;

21 5. AUTOMOBILE MEDICAL PAYMENT INSURANCE;

22 6. CREDIT-ONLY INSURANCE;

23 7. COVERAGE FOR ON-SITE MEDICAL CLINICS; AND

24 8. OTHER SIMILAR INSURANCE COVERAGE, AS
25 SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104-191,
26 UNDER WHICH BENEFITS FOR MEDICAL CARE ARE SECONDARY OR INCIDENTAL
27 TO OTHER INSURANCE BENEFITS;

1 **(II) THE FOLLOWING BENEFITS IF THEY ARE PROVIDED**
2 **UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE OR**
3 **ARE OTHERWISE NOT AN INTEGRAL PART OF A HEALTH BENEFIT PLAN:**

4 **1. LIMITED SCOPE DENTAL OR VISION BENEFITS;**

5 **2. BENEFITS FOR LONG-TERM CARE, NURSING HOME**
6 **CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION**
7 **OF THESE BENEFITS; AND**

8 **3. OTHER SIMILAR LIMITED BENEFITS AS SPECIFIED**
9 **IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104-191;**

10 **(III) THE FOLLOWING BENEFITS IF OFFERED AS**
11 **INDEPENDENT, NONCOORDINATED BENEFITS:**

12 **1. COVERAGE ONLY FOR A SPECIFIED DISEASE OR**
13 **ILLNESS; AND**

14 **2. HOSPITAL INDEMNITY OR OTHER FIXED**
15 **INDEMNITY INSURANCE; OR**

16 **(IV) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE**
17 **POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:**

18 **1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE,**
19 **AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;**

20 **2. COVERAGE SUPPLEMENTAL TO THE COVERAGE**
21 **PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE; AND**

22 **3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED**
23 **TO COVERAGE UNDER AN EMPLOYER SPONSORED PLAN.**

24 **(E) “MEDICAL CARE” MEANS:**

25 **(1) ITEMS OR SERVICES FOR THE DIAGNOSIS, CURE, MITIGATION,**
26 **TREATMENT, OR PREVENTION OF A DISEASE, INJURY, OR CONDITION**
27 **AFFECTING ANY STRUCTURE OR FUNCTION OF THE BODY; AND**

28 **(2) TRANSPORTATION PRIMARILY FOR AND ESSENTIAL TO**
29 **MEDICAL CARE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.**

1 **11-602.**

2 **THIS SUBTITLE APPLIES TO A CARRIER THAT ISSUES OR DELIVERS A**
3 **HEALTH BENEFIT PLAN IN THE STATE.**

4 **11-603.**

5 **(A) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHARGE A**
6 **PREMIUM TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED UNDER A**
7 **HEALTH BENEFIT PLAN BEFORE THE APPLICABLE PREMIUM RATE IS FILED**
8 **WITH AND APPROVED BY THE COMMISSIONER.**

9 **(B) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHANGE THE**
10 **PREMIUM CHARGED TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED**
11 **UNDER A HEALTH BENEFIT PLAN UNTIL THE APPLICABLE PREMIUM RATE**
12 **CHANGE HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.**

13 **(C) (1) (I) ANY APPLICABLE PREMIUM RATE OR PREMIUM RATE**
14 **CHANGE OF A CARRIER SUBJECT TO THIS SUBTITLE SHALL BE FILED WITH THE**
15 **COMMISSIONER AT LEAST 90 DAYS BEFORE ITS PROPOSED EFFECTIVE DATE.**

16 **(II) IF THE PREMIUM RATES FILED ARE NOT ACCOMPANIED**
17 **BY INFORMATION SUFFICIENT FOR THE COMMISSIONER TO DETERMINE**
18 **WHETHER THE PREMIUM RATE FILING MEETS THE REQUIREMENTS OF THIS**
19 **SUBTITLE, THE COMMISSIONER SHALL REQUIRE THE CARRIER TO PROVIDE THE**
20 **NEEDED INFORMATION.**

21 **(III) IF THE COMMISSIONER REQUIRES ADDITIONAL**
22 **INFORMATION, THE 90-DAY PERIOD UNDER SUBPARAGRAPH (I) OF THIS**
23 **PARAGRAPH SHALL BEGIN AGAIN ON THE DATE THE REQUIRED INFORMATION IS**
24 **RECEIVED BY THE COMMISSIONER.**

25 **(IV) ON WRITTEN APPLICATION BY THE CARRIER, THE**
26 **COMMISSIONER MAY AUTHORIZE A PROPOSED PREMIUM RATE THAT THE**
27 **COMMISSIONER HAS APPROVED TO BECOME EFFECTIVE:**

28 **1. BEFORE THE EXPIRATION OF THE 90-DAY REVIEW**
29 **PERIOD OR ANY EXTENSION OF THE 90-DAY REVIEW PERIOD; OR**

30 **2. AT A LATER DATE.**

31 **(2) A PREMIUM RATE FILING IS DEEMED APPROVED UNLESS**
32 **DISAPPROVED BY THE COMMISSIONER WITHIN THE 90-DAY PERIOD OR ANY**

1 EXTENSION OF THE 90-DAY PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS
2 SUBSECTION.

3 (3) (I) THE COMMISSIONER SHALL DISAPPROVE OR MODIFY A
4 PROPOSED PREMIUM RATE FILING IF THE PROPOSED PREMIUM RATES APPEAR,
5 BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS, TO BE
6 EXCESSIVE IN RELATION TO BENEFITS.

7 (II) IN DETERMINING WHETHER TO DISAPPROVE OR
8 MODIFY A PREMIUM RATE FILING OF A CARRIER, THE COMMISSIONER SHALL
9 CONSIDER:

10 1. PAST AND PROSPECTIVE LOSS EXPERIENCE IN
11 AND OUTSIDE THE STATE;

12 2. UNDERWRITING PRACTICE AND JUDGMENT, TO
13 THE EXTENT APPROPRIATE;

14 3. A REASONABLE MARGIN FOR RESERVE NEEDS;

15 4. PAST AND PROSPECTIVE EXPENSES, BOTH
16 COUNTRYWIDE AND THOSE SPECIFICALLY APPLICABLE TO THE STATE; AND

17 5. ANY OTHER RELEVANT FACTORS IN AND OUTSIDE
18 THE STATE.

19 (4) (I) EACH PREMIUM RATE FILING AND ANY SUPPORTING
20 INFORMATION FILED UNDER THIS SUBTITLE SHALL BE OPEN TO PUBLIC
21 INSPECTION AS SOON AS FILED.

22 (II) ON REQUEST AND PAYMENT OF A REASONABLE FEE, A
23 PERSON MAY OBTAIN COPIES OF A PREMIUM RATE FILING AND ANY
24 SUPPORTING INFORMATION.

25 (D) NOTWITHSTANDING THE COMMISSIONER'S PREVIOUS APPROVAL
26 OF A PREMIUM RATE FILING OF A CARRIER SUBJECT TO THIS SECTION, THE
27 COMMISSIONER, AT ANY TIME, MAY REQUIRE THE CARRIER TO DEMONSTRATE
28 THAT, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS AND
29 CONSIDERING THE FACTORS LISTED IN SUBSECTION (C)(3) OF THIS SECTION,
30 ITS PREMIUM RATES FOR A HEALTH BENEFIT PLAN ARE NOT EXCESSIVE IN
31 RELATION TO BENEFITS.

1 **(E) (1) IF, AFTER THE APPLICABLE REVIEW PERIOD ESTABLISHED**
2 **UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER FINDS THAT**
3 **THE PREMIUM RATES IN A PREMIUM RATE FILING OF A CARRIER SUBJECT TO**
4 **THIS SECTION ARE EXCESSIVE, AS DETERMINED UNDER SUBSECTION (C)(3) OF**
5 **THIS SECTION, THE COMMISSIONER SHALL ISSUE TO THE CARRIER AN ORDER**
6 **THAT:**

7 **(I) SPECIFIES THE REASONS WHY THE PREMIUM RATE**
8 **FILING WAS NOT APPROVED UNDER SUBSECTION (C)(3) OF THIS SECTION; AND**

9 **(II) STATES WHEN, WITHIN A REASONABLE PERIOD AFTER**
10 **THE ORDER, THE PREMIUM RATE FILING WILL NO LONGER BE EFFECTIVE.**

11 **(2) (I) THE COMMISSIONER SHALL HOLD A HEARING BEFORE**
12 **ISSUING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

13 **(II) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF**
14 **THE HEARING TO THE CARRIER AT LEAST 10 DAYS BEFORE THE HEARING.**

15 **(III) THE WRITTEN NOTICE SHALL SPECIFY THE MATTERS TO**
16 **BE CONSIDERED AT THE HEARING.**

17 **(3) AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS**
18 **SUBSECTION DOES NOT AFFECT A HEALTH BENEFIT PLAN ISSUED OR**
19 **DELIVERED BEFORE THE EXPIRATION OF THE PERIOD STATED IN THE ORDER.**

20 **(F) EACH DECISION OR FINDING OF THE COMMISSIONER ABOUT**
21 **PREMIUM RATES MADE UNDER THIS SUBTITLE IS SUBJECT TO JUDICIAL REVIEW**
22 **IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.**

23 14–126.

24 **(a) (1) A corporation subject to this subtitle may not amend its certificate**
25 **of incorporation, bylaws, or the terms and provisions of contracts issued or proposed to**
26 **be issued to subscribers to the plan until the proposed amendments have been**
27 **submitted to and approved by the Commissioner and the applicable fees required by §**
28 **2–112 of this article have been paid.**

29 **(2) (I) A corporation subject to this subtitle may not change the**
30 **table of rates charged or proposed to be charged to subscribers for a form of contract**
31 **issued or to be issued for health care services until the proposed change has been**
32 **submitted to and approved by the Commissioner.**

1 **(II) 1. A NONPROFIT HEALTH SERVICE PLAN THAT**
 2 **OFFERS A HEALTH BENEFIT PLAN, AS DEFINED IN § 11-601 OF THIS ARTICLE, IS**
 3 **SUBJECT TO TITLE 11, SUBTITLE 6 OF THIS ARTICLE FOR THE HEALTH BENEFIT**
 4 **PLAN.**

5 **2. IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF**
 6 **THIS ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE**
 7 **PROVISIONS OF TITLE 11, SUBTITLE 6 OF THIS ARTICLE SHALL PREVAIL.**

8 (3) The Commissioner shall approve an amendment to the articles of
 9 incorporation or bylaws under paragraph (1) of this subsection unless the
 10 Commissioner determines the amendment is contrary to the public interest.

11 **Article – Health – General**

12 19-713.

13 (a) **(1)** Each health maintenance organization shall file with the
 14 Commissioner and pay the applicable filing fee as provided in § 2-112 of the Insurance
 15 Article, before they become effective:

16 **[(1)] (I)** All rates that the health maintenance organization
 17 charges subscribers or groups of subscribers; and

18 **[(2)] (II)** The form and content of each contract between the
 19 health maintenance organization and its subscribers or groups of subscribers.

20 **(2) (I) A HEALTH MAINTENANCE ORGANIZATION THAT OFFERS**
 21 **A HEALTH BENEFIT PLAN, AS DEFINED IN § 11-601 OF THE INSURANCE**
 22 **ARTICLE, IS SUBJECT TO TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE**
 23 **FOR THE HEALTH BENEFIT PLAN.**

24 **(II) IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE**
 25 **INSURANCE ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE**
 26 **PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE SHALL**
 27 **PREVAIL.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 29 July 1, 2012.