

Chapter 321

(House Bill 489)

AN ACT concerning

Termination of Maryland Health Insurance Plan, Transfer of Senior Prescription Drug Assistance Program, and Funding for State Reinsurance Program

FOR the purpose of repealing provisions of law establishing the Maryland Health Insurance Plan (MHIP); repealing provisions of law establishing the Board of Directors for MHIP; repealing provisions of law establishing the Maryland Health Insurance Plan Fund (MHIP Fund); repealing provisions of law governing the standard benefit package to be offered by MHIP and requiring MHIP to be the alternative mechanism for certain individuals under a certain federal law; repealing the duties of the Maryland Insurance Commissioner relating to MHIP; altering the contents of the Health Care Coverage Fund by removing money transferred to the Fund from the MHIP Fund; repealing a requirement for the Health Services Cost Review Commission to assess a certain amount in hospital rates to operate and administer MHIP; repealing the ceiling on a certain hospital assessment; repealing the authorization for certain funds to be used for the State Reinsurance Program; repealing the exemption from taxation for MHIP and the Senior Prescription Drug Assistance Program (Program); transferring the Program from the Board of Directors for MHIP to the Department of Health and Mental Hygiene on a certain date; repealing the requirement for the Board of Directors for MHIP to contract with a third party to administer the Program; requiring the Department to administer the Program; establishing the Senior Prescription Drug Assistance Program Fund (Fund) as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund separately and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purposes for which the Fund may be used; establishing certain conditions on the use of the Fund for a certain purpose; providing for the investment of money in and expenditures from the Fund; requiring the Program to have a certain budget code; repealing the segregated account for the Program in the MHIP Fund; repealing a requirement for the Board of Directors for MHIP to report on certain information about the Program; altering the period of time during which the subsidy from a certain nonprofit health service plan for the Program may not exceed a certain amount; requiring the nonprofit health service plan to transfer certain funds for the Program to the Fund, instead of the separate account within the MHIP Fund; requiring certain premium tax revenue collected by the Maryland Insurance Administration to be deposited into the Fund, instead of the MHIP Fund; deleting the MHIP Fund from, and adding the Fund to, the list of funds for which interest earnings do not accrue to the General Fund of the State; altering the contents of the Maryland Health Benefit Exchange Fund to include revenues transferred from the MHIP Fund before a certain date, instead of revenues from the separate account of the MHIP Fund; requiring funds transferred to the Maryland

Health Benefit Exchange Fund from the MHIP Fund before a certain date to be placed in the account for the State Reinsurance Program and used only for a specified purpose; repealing a requirement that the Maryland Health Benefit Exchange obtain approval of the Board of Directors for MHIP to use certain revenue to fund the State Reinsurance Program; requiring the Maryland Health Benefit Exchange to use certain funds to fund the State Reinsurance Program; repealing obsolete provisions of law establishing a Maryland Pharmacy Assistance Program; defining a certain term; repealing certain definitions; making certain conforming changes; extending the termination date of the Program; repealing obsolete provisions of law relating to a carrier required to offer a certain drug subsidy plan; authorizing a certain amount of a certain fund balance to be used in certain fiscal years to support certain expenses of MHIP; requiring the Department to provide funds to the Administrator of the Program, in accordance with a certain contract, for certain costs; providing for the transfer of certain employees, books and records, property, equipment, fixtures, assets, liabilities, obligations, and credits; ~~requiring the contract for the Administrator of the Program to remain in force until a certain date~~; providing that certain employees transferred to the Maryland Health Benefit Exchange and the Department as a result of this Act shall be transferred without diminution of certain rights, benefits, employment, or retirement status; and generally relating to the termination of the Maryland Health Insurance Plan, the transfer of the Senior Prescription Drug Assistance Program, and funding for the State Reinsurance Program.

BY repealing

Article – Insurance

Section 14–501 through 14–509, the subtitle “Subtitle 5. Programs for Medically Uninsurable and Underinsured Individuals”, and the part “Part I. Maryland Health Insurance Plan”

Annotated Code of Maryland

(2011 Replacement Volume and 2015 Supplement)

BY transferring

Article – Insurance

Section 14–510 through 14–515, respectively, and the part “Part II. Senior Prescription Drug Assistance Program”

Annotated Code of Maryland

(2011 Replacement Volume and 2015 Supplement)

to be

Article – Health – General

Section 15–1001 through 15–1006, respectively, and the subtitle “Subtitle 10. Senior Prescription Drug Assistance Program”

Annotated Code of Maryland

(2015 Replacement Volume)

BY repealing

Article – Health – General

Section 15–124
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–701(a) and (b)
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–701(f) and (i)(4) and 19–214(d)
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–1001 through 15–1006
Annotated Code of Maryland
(2015 Replacement Volume)
(As enacted by Section 2 of this Act)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 6–101(b), 14–106, 14–106.2, 14–107, 31–107, and 31–117(c)(3)
Annotated Code of Maryland
(2011 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2015 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)24.
Annotated Code of Maryland
(2015 Replacement Volume)

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, Chapter 509 of the Acts of the General Assembly of 2007, Chapter 558 of the Acts of the General Assembly of 2008,

Chapter 119 of the Acts of the General Assembly of 2010, Chapter 27 of the Acts of the General Assembly of 2012, and Chapter 84 of the Acts of the General Assembly of 2014

Section 13

BY repealing and reenacting, with amendments,
Chapter 489 of the Acts of the General Assembly of 2015
Section 9

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 14–501 through 14–509, the subtitle “Subtitle 5. Programs for Medically Uninsurable and Underinsured Individuals”, and the part “Part I. Maryland Health Insurance Plan” of Article – Insurance of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 14–510 through 14–515, respectively, and the part “Part II. Senior Prescription Drug Assistance Program” of Article – Insurance of the Annotated Code of Maryland be transferred to be Section(s) 15–1001 through 15–1006, respectively, and the subtitle “Subtitle 10. Senior Prescription Drug Assistance Program” of Article – Health – General of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

[15–124.

(a) The Department shall maintain a Maryland Pharmacy Assistance Program for low income individuals not eligible for Medicare whose:

(1) Assets are not more than the level established by the federal Centers for Medicare and Medicaid Services under the Qualified Medicare Beneficiary Program; and

(2) Gross annual income does not exceed 116% of the federal poverty guidelines for an individual, or 100% of the federal poverty guidelines for a family of two or more.

(b) (1) (i) Reimbursement under the Maryland Pharmacy Assistance Program may be limited to maintenance drugs, anti-infectives, and AZT as specified in regulations to be issued by the Secretary after consultation with the Maryland Pharmacists Association.

(ii) 1. For any drug on the Program’s interchangeable drug list, the Program shall reimburse providers in an amount not more than it would reimburse for

the drug's generic equivalent, unless the individual's physician states, in his or her own handwriting, on the face of the prescription, that a specific brand is "medically necessary" for the particular patient.

2. If an appropriate generic drug is not generally available, the Department may waive the reimbursement requirement under subparagraph 1 of this subparagraph.

(2) The reimbursement shall be up to the amount paid for the same items or services under the pharmacy program of the Maryland Medical Assistance Program and shall be subject to a copayment of not more than:

(i) \$2.50 for a generic drug or a brand name drug on a preferred drug list established by the Department; and

(ii) \$7.50 for a brand name drug not on a preferred drug list established by the Department.

(c) (1) Except as provided under paragraph (4) of this subsection and unless the change is made by an emergency regulation, the Maryland Pharmacy Assistance Program shall notify all pharmacies under contract with the Program in writing of changes in the Pharmaceutical Benefit Program rules or requirements at least 30 days before the change is effective.

(2) Changes that require 30 days' advance written notice under paragraph (1) of this subsection are:

(i) Exclusion of coverage for classes of drugs as specified by contract;

(ii) Changes in prior or preauthorization procedures; and

(iii) Selection of new prescription claims processors.

(3) If the Maryland Pharmacy Assistance Program fails to provide advance notice as required under paragraph (1) of this subsection, it shall honor and pay in full any claim under the Program rules or requirements that existed before the change for 30 days after the postmarked date of the notice.

(4) Notwithstanding any other provision of law, the notice requirements of this subsection do not apply to the addition of new generic drugs authorized under § 12-504 of the Health Occupations Article.

(d) (1) The Secretary shall adopt rules and regulations that authorize the denial, restriction, or termination of eligibility for recipients who have abused benefits under the Maryland Pharmacy Assistance Program.

(2) As a condition of participation, the Department may require Maryland Pharmacy Assistance Program participants to apply for eligibility in the Maryland Medical Assistance Program within 60 days of notification to do so by the Department.

(3) The rules and regulations shall require that the recipient be given notice and an opportunity for a hearing before eligibility may be denied, restricted, or terminated under this subsection.

(e) The Secretary shall develop a program, in consultation with appropriate agencies, that will provide information to ineligible Maryland Pharmacy Assistance Program applicants regarding other programs that they may be eligible for including the Maryland Medbank Program established under § 15–124.2 of this subtitle and the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5 of the Insurance Article.]

15–701.

(a) In this subtitle, “Fund” means the Health Care Coverage Fund.

(b) There is a Health Care Coverage Fund.

(f) The Fund consists of:

[(1) Money transferred from the Maryland Health Insurance Plan Fund;]

[(2) (1) Money collected from any assessment by the State Health Services Cost Review Commission on hospitals under § 19–214(d) of this article;

[(3) (2) Any money made available from investment earnings; and

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

(i) (4) Money [transferred from the Maryland Health Insurance Plan Fund or] collected from an assessment by the State Health Services Cost Review Commission on hospitals may not be used for the purpose of this subsection.

Subtitle 10. Senior Prescription Drug Assistance Program.

15–1001.

(a) In [Part II of] this subtitle the following words have the meanings indicated.

(b) “Eligible individual” means an individual who:

- (1) Is a resident of Maryland;
- (2) Is a Medicare beneficiary enrolled in the Medicare Part D Voluntary Prescription Drug Benefit Program or a Medicare Advantage Plan that provides Part D coverage;
- (3) Is not enrolled in a health benefit plan, other than a Medicare Part D prescription drug plan or a Medicare Advantage Plan, that provides prescription drug benefits at the time that the individual applies for enrollment in the Program;
- (4) Has an annual household income at or below 300% of the federal poverty guidelines;
- (5) Is not eligible for a full federal low-income subsidy under 42 C.F.R. § 423.772; and
- (6) Pays the premium, and copayments or coinsurance, for the Program.

(c) “Enrollee” means an individual enrolled in the Program.

(d) **“FUND” MEANS THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM FUND ESTABLISHED UNDER § 15–1004 OF THIS SUBTITLE.**

(e) “Program” means the Senior Prescription Drug Assistance Program established under [Part II of] this subtitle.

15–1002.

- (a) There is a Senior Prescription Drug Assistance Program.
- (b) The purpose of the Program is to provide Medicare Part D beneficiaries, who meet Program eligibility requirements, with a State subsidy.
- (c) The [Board shall contract with a third party to] **DEPARTMENT SHALL** administer the Program.

[(d) The Administrator of the Program shall:

- (1) Submit a detailed financial accounting of the Program to the Board as often as the Board requires;
- (2) Collect and submit to the Board data regarding the utilization patterns and costs for Program enrollees; and
- (3) Develop and implement a marketing plan targeted at eligible individuals throughout the State.]

15–1003.

(a) The Program shall:

(1) Provide a prescription drug benefit subsidy, as determined by the [Board] **DEPARTMENT**, 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] **FUND**.

(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] **THE INSURANCE ARTICLE**; and

(ii) Any other funds available for this purpose.

(d) The [Program] **DEPARTMENT** shall maintain a waiting list of individuals who meet the eligibility requirements for the Program but who are not served by the Program due to funding limitations.

(e) The [Board] **DEPARTMENT** shall determine annually:

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

(2) The amount of subsidy to be provided under subsections (a) and (c)(2) of this section; and

(3) The amount of any additional subsidy provided under subsection (c)(1) of this section.

[(f) On or before January 1 of each year, the Board, in accordance with § 2–1246 of the State Government Article, shall report to the General Assembly on:

(1) The number of individuals on the waiting list for the Program; and

(2) To the extent that the Board is able to collect the information:

(i) The number of enrollees with out-of-pocket prescription drug costs that exceed \$2,250, broken down for each fiscal quarter; and

(ii) The total annual out-of-pocket prescription drug costs for enrollees.]

15–1004.

[(a) 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) 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 subsections (c) and (d) of this section.]

(A) THERE IS A SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM FUND.

(B) THE PURPOSE OF THE FUND IS TO SUPPORT THE ADMINISTRATION, OPERATION, AND ACTIVITIES OF THE PROGRAM.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) THE FUND CONSISTS OF:

(1) MONEY TRANSFERRED TO THE FUND BY A NONPROFIT HEALTH SERVICE PLAN UNDER §§ 14-106(D) AND 14-106.2 OF THE INSURANCE ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INTEREST EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE FUND MAY BE USED ONLY FOR THE ADMINISTRATION, OPERATION, AND ACTIVITIES OF THE PROGRAM.

(2) EXCESS FUNDS NOT REQUIRED FOR THE ADMINISTRATION, OPERATION, AND ACTIVITIES OF THE PROGRAM:

(I) MAY BE USED ONLY TO SUBSIDIZE:

1. THE KIDNEY DISEASE PROGRAM UNDER TITLE 13, SUBTITLE 3 OF THIS ARTICLE; OR

2. THE PROVISION OF MENTAL HEALTH SERVICES TO THE UNINSURED UNDER TITLE 10, SUBTITLE 2 OF THIS ARTICLE; AND

(II) MAY BE EXPENDED FOR THE PURPOSES IN ITEM (I) OF THIS PARAGRAPH ONLY:

1. THROUGH A TRANSFER OF FUNDS BY BUDGET AMENDMENT; AND

2. AFTER:

A. THE BUDGET AMENDMENT HAS BEEN SUBMITTED TO THE DEPARTMENT OF LEGISLATIVE SERVICES; AND

B. THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY HAVE CONSIDERED THE BUDGET AMENDMENT OR 45 DAYS HAVE

ELAPSED FROM THE DATE OF SUBMISSION OF THE AMENDMENT TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(H) (1) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(2) THE PROGRAM SHALL HAVE ITS OWN PROGRAM CODE WITHIN THE STATE BUDGET.

[(c) (I) (1) [On or before April 1, 2003] BEGINNING JULY 1, 2016, and quarterly thereafter, the nonprofit health service plan required to subsidize the Program under § 14–106(d) of [this title] THE INSURANCE ARTICLE shall deposit to the Fund [under § 14–504 of this subtitle] the amount that is necessary to operate and administer the Program for the following quarter.

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

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

[(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) In addition to the amount deposited under subsection (c) of this section, 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.]

15–1005.

(a) On or before June 30 of each year, the [Board] DEPARTMENT shall submit a report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly that includes a summary of Program activities for the year and any recommendations for consideration by the General Assembly.

(b) (1) The [Board] **DEPARTMENT** shall adopt regulations to carry out [Part II of] this subtitle.

(2) The [Board] **DEPARTMENT** may adopt regulations that require an insurance producer to receive training about the Program before the insurance producer may market the Program or assist a Medicare beneficiary to enroll in the Program.

(3) Subject to § 10–116(d) of [this article] **THE INSURANCE ARTICLE**, training received under paragraph (2) of this subsection qualifies as continuing education under § 10–116(a) of [this article] **THE INSURANCE ARTICLE**.

15–1006.

(a) For the purpose of maximizing participation in the Program, the [Board] **DEPARTMENT** may develop outreach materials for distribution to eligible individuals.

(b) The [Board] **DEPARTMENT** shall publicize the existence and eligibility requirements of the Program through the following entities:

(1) The Department of Aging;

(2) Local health departments;

(3) Continuing care retirement communities;

(4) Places of worship;

(5) Civic organizations;

(6) Community pharmacies; and

(7) Any other entity that the [Board] **DEPARTMENT** determines appropriate.

(c) The Department of Aging, through its Senior Health Insurance Program, shall:

(1) Assist eligible individuals in applying for coverage under the Program;
and

(2) Provide notice of the Program and its eligibility requirements to potentially eligible individuals who seek health insurance counseling services through the Department of Aging.

(d) The [Board] **DEPARTMENT** shall develop a mail-in application for the Program.

(e) Any outreach performed by the [Board] **DEPARTMENT** on behalf of the Program shall be funded through the [Program's segregated account within the] Fund.

19-214.

(d) (1) Each year, the Commission shall assess a uniform, broad-based, and reasonable amount in hospital rates to[:

(i) Reflect] **REFLECT** the aggregate reduction in hospital uncompensated care realized from the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly[; and

(ii) Operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article].

(2) (i) [For the portion of the assessment under paragraph (1)(i) of this subsection:]

1. The Commission shall ensure that the assessment amount equals 1.25% of projected regulated net patient revenue[; and].

2. Each hospital shall remit its assessment amount to the Health Care Coverage Fund established under § 15-701 of this article.

(ii) Any savings realized in averted uncompensated care as a result of the expansion of health care coverage under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly that are not subject to the assessment under paragraph [(1)(i)] **(1)** of this subsection shall be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

[(3) For the portion of the assessment under paragraph (1)(ii) of this subsection:

(i) The Commission shall ensure that the assessment:

1. Shall be included in the reasonable costs of each hospital when establishing the hospital's rates;

2. May not be considered in determining the reasonableness of rates or hospital financial performance under Commission methodologies; and

3. May not be more than 0.3% of net patient revenue; and

(ii) Each hospital shall remit monthly one-twelfth of the amount assessed under paragraph (1)(ii) of this subsection to the Maryland Health Insurance Plan Fund established under Title 14, Subtitle 5 of the Insurance Article, for the purpose of operating and administering the Maryland Health Insurance Plan.]

~~[(4)] (3) The assessment authorized under paragraph (1) of this subsection may not exceed 3% in the aggregate of any hospital's total net regulated patient revenue.~~

[(5)] ~~(4)~~ (3) (i) Funds generated from the assessment under this subsection may be used only [as follows:

1. To] **TO** supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008[; and

2. To provide funding for the operation and administration of the Maryland Health Insurance Plan, including reimbursing the Department for subsidizing the plan costs of members of the Maryland Health Insurance Plan under a Medicaid waiver program].

(ii) Any funds remaining after [expenditures] **THE EXPENDITURE OF FUNDS** under subparagraph (i) of this paragraph [have] **HAS** been made may be used:

~~1. For~~ **FOR** the general operations of the Medicaid program; ~~and~~

~~2. To provide funding for the State Reinsurance Program authorized under § 31-117 of the Insurance Article.~~

Article – Insurance

6–101.

(b) The following persons are not subject to taxation under this subtitle:

(1) a nonprofit health service plan corporation that meets the requirements established under §§ 14–106 and 14–107 of this article;

(2) a fraternal benefit society;

(3) a surplus lines broker, who is subject to taxation in accordance with Title 3, Subtitle 3 of this article;

(4) an unauthorized insurer, who is subject to taxation in accordance with Title 4, Subtitle 2 of this article;

(5) [the Maryland Health Insurance Plan established under Title 14, Subtitle 5, Part I of this article;

(6) the Senior Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of this article;

(7)] a nonprofit health maintenance organization authorized by Title 19, Subtitle 7 of the Health – General Article that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

[(8)] **(6)** a qualified nonprofit health insurance issuer that is established under § 1322 of the Affordable Care Act.

14–106.

(a) It is the public policy of this State that the exemption from taxation for nonprofit health service plans under § 6–101(b)(1) of this article is granted so that funds which would otherwise be collected by the State and spent for a public purpose shall be used in a like manner and amount by the nonprofit health service plan.

(b) By March 1 of each year or a deadline otherwise imposed by the Commissioner for good cause, each nonprofit health service plan shall file with the Commissioner a premium tax exemption report that:

(1) is in a form approved by the Commissioner; and

(2) demonstrates that the plan has used funds equal to the value of the premium tax exemption provided to the plan under § 6–101(b) of this article, in a manner that serves the public interest in accordance with this section.

(c) A nonprofit health service plan may satisfy the public service requirement of this section by establishing that, to the extent the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article exceeds the subsidy required under the Senior Prescription Drug Assistance Program established under [Subtitle 5, Part II of this title] **TITLE 15, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE**, the plan has:

(1) increased access to, or the affordability of, one or more health care products or services by offering and selling health care products or services that are not required or provided for by law;

(2) provided financial or in-kind support for public health programs;

(3) employed underwriting standards in a manner that increases the availability of one or more health care services or products;

(4) employed pricing policies that enhance the affordability of health care services or products and result in a higher medical loss ratio than that established by a comparable for-profit health insurer; or

(5) served the public interest by any method or practice approved by the Commissioner.

(d) (1) Notwithstanding subsection (c) of this section, a nonprofit health service plan that is subject to this section and issues comprehensive health care benefits in the State shall:

(i) offer health care products in the individual market;

(ii) offer health care products in the small employer group market in accordance with Title 15, Subtitle 12 of this article;

(iii) subsidize the Senior Prescription Drug Assistance Program established under [Subtitle 5, Part II of this title] **TITLE 15, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE**;

(iv) subsidize the Kidney Disease Program under Title 13, Subtitle 3 of the Health – General Article;

(v) support the costs of the Community Health Resources Commission under Title 19, Subtitle 21 of the Health – General Article, including:

1. operating grants to community health resources;

2. funding for a unified data information system;

3. the documented direct costs of fulfilling the statutory and regulatory duties of the Commission; and

4. the administrative costs of the Commission; and

(vi) subsidize the provision of mental health services to the uninsured under Title 10, Subtitle 2 of the Health – General Article.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the support provided under paragraph (1)(iv), (v), and (vi) of this subsection to the Kidney Disease Program, the Community Health Resources Commission, and the Department of Health and Mental Hygiene, respectively, shall be the value of the premium tax exemption

less the subsidy required under this subsection for the Senior Prescription Drug Assistance Program.

(ii) The subsidy provided under this subsection to the Community Health Resources Commission may not be less than:

1. \$3,000,000 for each of fiscal years 2012 and 2013; and
2. \$8,000,000 for fiscal year 2014 and each fiscal year thereafter.

(3) For any year, the subsidy and funding required under this subsection by a nonprofit health service plan subject to this section may not exceed the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

(e) The subsidy that a nonprofit health service plan is required to provide to the Senior Prescription Drug Assistance Program under subsection (d)(1)(iii) of this section may not exceed:

- (1) for the period of January 1, 2006 through June 30, 2006, \$8,000,000;
- (2) for fiscal years 2008 through [2017] **2020**, \$14,000,000; and
- (3) for any year, the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article.

(f) (1) Subject to paragraph (2) of this subsection, each report filed with the Commissioner under subsection (b) of this section is a public record.

(2) In accordance with § 4–335 of the General Provisions Article, the Commissioner shall deny inspection of any part of a report filed under subsection (b) of this section that the Commissioner determines contains confidential commercial information or confidential financial information.

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 with the calendar year that starts on January 1, 2009, and each calendar year thereafter, a corporation subject to this section 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] **§ 15–1004 OF THE HEALTH – GENERAL ARTICLE** if the corporation has a surplus that exceeds 800% of the consolidated risk–based capital requirements applicable to the corporation based on the corporation’s annual required statutory filing due March 1 of the most recent preceding calendar year for which:

(1) the corporation has filed an annual statement with the Administration;
and

(2) the filing of the annual statement preceded the start of the calendar year for which payment is to be made.

(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 most recent preceding calendar year for which:

(i) the corporation has filed an annual statement with the Administration; and

(ii) the filing of the annual statement preceded the start of the calendar year for which payment is to be made; or

(2) the federal government eliminates the coverage gap in the Medicare Part D prescription drug benefit.

(d) (1) On or before September 1 of each year, a corporation that is subject to this section shall notify the [Senior Prescription Drug Assistance Program] **DEPARTMENT OF HEALTH AND MENTAL HYGIENE** whether the corporation will transfer \$4,000,000 to the **SENIOR PRESCRIPTION DRUG ASSISTANCE Program FUND** under this section during the calendar year that starts on the immediately following January 1.

(2) The corporation’s determination on the transfer of funds shall be based on the risk–based capital calculation that is due on March 1 of the same calendar year in which the corporation gives the notice required under paragraph (1) of this subsection.

(e) A corporation that is subject to this section shall pay the \$4,000,000 to the Senior Prescription Drug Assistance Program **FUND** in quarterly installments of \$1,000,000, beginning not later than October 1 for the calendar year that starts on the immediately following January 1.

(f) The transfer of funds that a corporation is required to make to the Senior Prescription Drug Assistance Program **FUND** under subsection (b) of this section:

(1) is in addition to the subsidy that a nonprofit health service plan is required to provide to the Senior Prescription Drug Assistance Program under § 14–106(d)(1)(iii) of this subtitle; and

(2) is not subject to the limitation on the amount of the subsidy to the Senior Prescription Drug Assistance Program imposed by § 14–106(e) of this subtitle.

14–107.

(a) By November 1 of each year, the Commissioner shall issue an order notifying each nonprofit health service plan that is required to file a report under § 14–106 of this subtitle of whether the plan has satisfied the requirements of § 14–106 of this subtitle.

(b) If the Commissioner determines that a nonprofit health service plan has not satisfied the requirements of § 14–106 of this subtitle, the Commissioner shall issue an order requiring the nonprofit health service plan to pay the premium tax under Title 6, Subtitle 1 of this article:

(1) for a period of time beginning with the date the plan was determined to be out of compliance with § 14–106 of this subtitle; and

(2) in an amount equal to the amount by which the value of the nonprofit health service plan's premium tax exemption under § 6–101(b) of this article exceeds the sum of:

(i) the subsidy required under the Senior Prescription Drug Assistance Program established under [Subtitle 5, Part II of this title] **TITLE 15, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE**; and

(ii) other funds used by the nonprofit health service plan to meet the public service requirement under § 14–106 of this subtitle.

(c) A nonprofit health service plan that fails to timely file the report required under § 14–106 of this subtitle shall pay the penalties under § 14–121 of this subtitle.

(d) A party aggrieved by an order of the Commissioner issued under this section has a right to a hearing in accordance with §§ 2–210 through 2–215 of this article.

(e) Premium tax revenue collected by the Administration as the result of an order issued under subsection (b) of this section shall be deposited into the [Maryland Health Insurance Plan Fund established under § 14–504 of this title] **SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM FUND ESTABLISHED UNDER § 15–1004 OF THE HEALTH – GENERAL ARTICLE**.

31-107.

(a) There is a Maryland Health Benefit Exchange Fund.

(b) (1) The purpose of the Fund is to:

(i) provide funding for the operation and administration of the Exchange in carrying out the purposes of the Exchange under this title; and

(ii) provide funding for the establishment and operation of the State Reinsurance Program authorized under § 31-117 of this title.

(2) The operation and administration of the Exchange and the State Reinsurance Program may include functions delegated by the Exchange to a third party under law or by contract.

(c) The Exchange shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

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

(e) The Fund consists of:

(1) any user fees or other assessments collected by the Exchange;

(2) all revenue deposited into the Fund that is received from the distribution of the premium tax under § 6-103.2 of this article;

(3) all revenue [that is deposited into the Fund under § 14-504(d) of this article from the separate account of the Maryland Health Insurance Plan Fund that holds money collected under § 19-214(d)(1)(ii) of the Health – General Article] **TRANSFERRED TO THE FUND BEFORE JULY 1, 2016, FROM THE MARYLAND HEALTH INSURANCE PLAN FUND;**

(4) income from investments made on behalf of the Fund;

(5) interest on deposits or investments of money in the Fund;

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

(7) money donated to the Fund;

(8) money awarded to the Fund through grants; and

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

(f) The Fund may be used only:

(1) for the operation and administration of the Exchange in carrying out the purposes authorized under this title; and

(2) for the establishment and operation of the State Reinsurance Program authorized under § 31–117 of this title.

(g) (1) The Board shall maintain separate accounts within the Fund for Exchange operations and for the State Reinsurance Program.

(2) Accounts within the Fund shall contain those moneys that are intended to support the purpose for which each account is designated.

(3) Funds received from the distribution of the premium tax under § 6–103.2 of this article shall be placed in the account for Exchange operations and may be used only for the purpose of funding the operation and administration of the Exchange.

(4) FUNDS TRANSFERRED FROM THE MARYLAND HEALTH INSURANCE PLAN FUND BEFORE JULY 1, 2016, SHALL BE PLACED IN THE ACCOUNT FOR THE STATE REINSURANCE PROGRAM AND MAY BE USED ONLY FOR THE PURPOSE OF FUNDING THE STATE REINSURANCE PROGRAM.

(h) (1) Expenditures from the Fund for the purposes authorized by this subtitle may be made only:

(i) with an appropriation from the Fund approved by the General Assembly in the State budget; or

(ii) by the budget amendment procedure provided for in Title 7, Subtitle 2 of the State Finance and Procurement Article.

(2) Notwithstanding § 7–304 of the State Finance and Procurement Article, if the amount of the distribution from the premium tax under § 6–103.2 of this article exceeds in any State fiscal year the actual expenditures incurred for the operation and administration of the Exchange, funds in the Exchange operations account from the premium tax that remain unspent at the end of the State fiscal year shall revert to the General Fund of the State.

(3) If operating expenses of the Exchange may be charged to either State or non-State fund sources, the non-State funds shall be charged before State funds are charged.

(i) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the Fund.

(3) Except as provided in subsection (h)(2) of this section, no part of the Fund may revert or be credited to the General Fund or any special fund of the State.

(j) A debt or an obligation of the Fund is not a debt of the State or a pledge of credit of the State.

31-117.

(c) (3) (i) The Exchange, in consultation with the Maryland Health Care Commission and with the approval of the Commissioner, may establish a State Reinsurance Program to take effect on or after January 1, 2014.

(ii) The purpose of the State Reinsurance Program is to mitigate the impact of high-risk individuals on rates in the individual insurance market inside and outside the Exchange.

(iii) [With the approval of and in collaboration with the Board of the Maryland Health Insurance Plan, the] **THE** Exchange [may] **SHALL** use [revenue received] **FUNDS TRANSFERRED** from the Maryland Health Insurance Plan Fund [under § 14-504(d) of this article] **BEFORE JULY 1, 2016**, to fund the State Reinsurance Program.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

24. [Maryland Health Insurance Plan Fund] **SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM FUND**;

Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of 2005, Chapter 345 of the Acts of 2006, Chapter 509 of the Acts of 2007, Chapter 558 of the Acts of 2008, Chapter 119 of the Acts of 2010, Chapter 27 of the Acts of 2012, and Chapter 84 of the Acts of 2014

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] **TITLE 15, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE**. At the end of December 31, [2016] **2019**, the Senior Prescription Drug Assistance Program established under [Title 14, Subtitle 5, Part II, as amended,] **TITLE 15, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE** 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.]

Chapter 489 of the Acts of 2015

SECTION 9. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law:

(a) Subject to subsection (b) of this section, for fiscal year 2015, funds in the Maryland Health Insurance Plan Fund established under § 14-504 of the Insurance Article

may be used by the Department of Health and Mental Hygiene to fund provider reimbursements in the Medicaid program.

(b) The amount of funds that may be used under subsection (a) of this section shall be the greater of:

(1) \$55,000,000; or

(2) The estimated percentage of the fund balance obtained from payers other than the federal Medicare program or the Medicaid program.

(c) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** remaining fund balance obtained from the federal Medicare program or the Medicaid program may be used in fiscal years 2016 through 2019 to support integrated care networks designed to reduce health care expenditures and improve outcomes for unmanaged high-needs Medicare patients and patients dually eligible for Medicaid and Medicare, consistent with the goals of Maryland's all-payer model.

(2) \$90,000 OF THE REMAINING FUND BALANCE OBTAINED FROM THE FEDERAL MEDICARE PROGRAM OR THE MEDICAID PROGRAM MAY BE USED IN FISCAL YEARS 2016 AND 2017 TO SUPPORT THE REMAINING EXPENSES OF THE MARYLAND HEALTH INSURANCE PLAN.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The responsibility for administering and operating the Senior Prescription Drug Assistance Program shall be transferred to the Department of Health and Mental Hygiene on July 1, 2016.

(b) (1) All funds remaining in the separate account for the Senior Prescription Drug Assistance Program in the Maryland Health Insurance Plan Fund shall be transferred to the Senior Prescription Drug Assistance Program Fund in the Department of Health and Mental Hygiene on July 1, 2016, and shall be used only in accordance with § 15-1004 of the Health – General Article, as enacted by Section 3 of this Act.

(2) The Department of Health and Mental Hygiene shall provide funds to the Administrator of the Senior Prescription Drug Assistance Program, 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 Senior Prescription Drug Assistance Program.

(c) (1) Except as provided in paragraph (2) of this subsection, on July 1, 2016, all of the employees, books and records, including electronic records, real and personal property, equipment, fixtures, assets, liabilities, obligations, and credits of the Maryland Health Insurance Plan shall be transferred to the Maryland Health Benefit Exchange.

(2) ~~(i)~~ On July 1, 2016, all of the employees, books and records, including electronic records, real and personal property, equipment, fixtures, assets, liabilities, obligations, including the contract for the Administrator of the Senior Prescription Drug Assistance Program, and credits of the Maryland Health Insurance Plan that relate directly to the Senior Prescription Drug Assistance Program shall be transferred to the Department of Health and Mental Hygiene.

~~(ii) The contract for the Administrator of the Senior Prescription Drug Assistance Program shall remain in force, in accordance with the terms of the contract, until the end of December 31, 2016.~~

SECTION 5. AND BE IT FURTHER ENACTED, That all employees who are transferred to the Maryland Health Benefit Exchange and the Department of Health and Mental Hygiene as a result of this Act shall be transferred without diminution of their rights, benefits, employment, or retirement status.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2016.

Approved by the Governor, May 10, 2016.