

SENATE BILL 239

C3

9lr0991
CF HB 258

By: **Senator Feldman**

Introduced and read first time: January 25, 2019

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2019

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – Individual Market Stabilization – Provider Fee**

3 FOR the purpose of clarifying that certain provisions of law apply to managed care
4 organizations; requiring a managed care organization to pay a certain fee on a
5 certain basis in certain calendar years; altering the purpose of certain provisions of
6 law requiring that certain entities be subject to a certain assessment on all amounts
7 used to calculate a certain premium tax liability or the amount of the entity's
8 premium tax exemption value; requiring that certain entities be subject to certain
9 assessments ~~for in~~ certain calendar years ~~in which the federal government makes an~~
10 ~~assessment and for certain calendar years in which the federal government does not~~
11 ~~make an assessment under a certain provision of federal law;~~ clarifying that certain
12 assessments are for insurance products that are subject to a certain provision of
13 federal law and may be subject to an assessment by the State; requiring that the
14 calculation of the assessment be made without regard to certain threshold limits or
15 a certain partial exclusion of net premiums; making a conforming change; providing
16 for the application of certain provisions of law; requiring the Maryland Health
17 Insurance Coverage Protection Commission to study a certain matter; providing that
18 certain provisions of this Act apply to stand-alone dental plan carriers and
19 stand-alone vision plan carriers; providing for the termination of a certain provision
20 of this Act, subject to a certain contingency; requiring the Maryland Insurance
21 Commissioner to forward a copy of a certain notice to the Department of Legislative
22 Services within a certain period of time and notify certain carriers; making a certain
23 provision of this Act subject to a certain contingency; and generally relating to the
24 stabilization of the individual market and the health insurance provider fee.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to

2 Article – Health – General

3 Section 15–102.3(g)

4 Annotated Code of Maryland

5 (2015 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article – Insurance

8 Section 6–102.1

9 Annotated Code of Maryland

10 (2017 Replacement Volume and 2018 Supplement)

11 BY repealing and reenacting, without amendments,

12 Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37

13 and 38 of the Acts of the General Assembly of 2018

14 Section 1(b)

15 BY repealing and reenacting, with amendments,

16 Chapter 17 of the Acts of the General Assembly of 2017, as amended by Chapters 37

17 and 38 of the Acts of the General Assembly of 2018

18 Section 1(h)(1)

19 BY repealing and reenacting, with amendments,

20 Article – Insurance

21 Section 6–102.1(a)

22 Annotated Code of Maryland

23 (2017 Replacement Volume and 2018 Supplement)

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

26 **Article – Health – General**

27 15–102.3.

28 **(G) (1) THE PROVISIONS OF § 6–102.1 OF THE INSURANCE ARTICLE**
29 **APPLY TO MANAGED CARE ORGANIZATIONS.**

30 **(2) FOR EACH CALENDAR YEAR THAT THE INSURANCE**
31 **COMMISSIONER ASSESSES A HEALTH INSURANCE PROVIDER FEE UNDER § 6–102.1**
32 **OF THE INSURANCE ARTICLE, A MANAGED CARE ORGANIZATION SHALL PAY THE FEE**
33 **ON A QUARTERLY BASIS IN ACCORDANCE WITH A SCHEDULE ADOPTED BY THE**
34 **INSURANCE COMMISSIONER.**

35 **Article – Insurance**

1 6–102.1.

2 (a) This section applies to:

3 (1) an insurer, a nonprofit health service plan, a health maintenance
4 organization, a dental plan organization, a fraternal benefit organization, and any other
5 person subject to regulation by the State that provides a product that:

6 (i) is subject to ~~the fee under~~ § 9010 of the Affordable Care Act; and

7 (ii) may be subject to an assessment by the State; and

8 (2) a managed care organization authorized under Title 15, Subtitle 1 of
9 the Health – General Article.

10 (b) The purpose of this section is to [recoup the aggregate amount of the] ASSIST
11 IN THE STABILIZATION OF THE INDIVIDUAL HEALTH INSURANCE MARKET BY
12 ASSESSING A health insurance provider fee [that otherwise would have been assessed
13 under § 9010 of the Affordable Care Act] that is attributable to State health risk for
14 calendar year 2019 [as a bridge to stability in the individual health insurance market] AND
15 ~~EACH CALENDAR YEAR THEREAFTER~~ YEARS 2019 THROUGH 2023, BOTH INCLUSIVE,
16 AS PROVIDED FOR UNDER SUBSECTION (C) OF THIS SECTION.

17 (c) (1) ~~[In] FOR A~~ calendar year ~~[2019] IN WHICH THE FEDERAL~~
18 ~~GOVERNMENT DOES NOT MAKE AN ASSESSMENT UNDER § 9010 OF THE~~
19 ~~AFFORDABLE CARE ACT~~, in addition to the amounts otherwise due under this subtitle,
20 an entity subject to this section shall be subject to an assessment of 2.75% on all amounts
21 used to calculate the entity's premium tax liability under § 6–102 of this subtitle or the
22 amount of the entity's premium tax exemption value for ~~THE IMMEDIATELY PRECEDING~~
23 calendar year ~~[2018]~~.

24 (2) ~~FOR A CALENDAR YEAR IN WHICH THE FEDERAL GOVERNMENT~~
25 ~~MAKES AN ASSESSMENT UNDER § 9010 OF THE AFFORDABLE CARE ACT IN~~
26 CALENDAR YEARS 2020 THROUGH 2023, BOTH INCLUSIVE, IN ADDITION TO THE
27 AMOUNTS OTHERWISE DUE UNDER THIS SUBTITLE, AN ENTITY SUBJECT TO THIS
28 SECTION SHALL BE SUBJECT TO AN ASSESSMENT OF 1% ON ALL AMOUNTS USED TO
29 CALCULATE THE ENTITY'S PREMIUM TAX LIABILITY UNDER § 6–102 OF THIS
30 SUBTITLE OR THE AMOUNT OF THE ENTITY'S PREMIUM TAX EXEMPTION VALUE FOR
31 THE IMMEDIATELY PRECEDING CALENDAR YEAR.

32 (3) THE ASSESSMENTS REQUIRED IN PARAGRAPHS (1) AND (2) OF
33 THIS SUBSECTION ARE FOR PRODUCTS THAT:

34 (I) ARE SUBJECT TO § 9010 OF THE AFFORDABLE CARE ACT;
35 AND

1 (II) MAY BE SUBJECT TO AN ASSESSMENT BY THE STATE.

2 (4) THE CALCULATION OF THE ASSESSMENTS REQUIRED UNDER
 3 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL BE MADE WITHOUT REGARD
 4 TO:

5 (I) THE THRESHOLD LIMITS ESTABLISHED IN § 9010(B)(2)(A)
 6 OF THE AFFORDABLE CARE ACT; OR

7 (II) THE PARTIAL EXCLUSION OF NET PREMIUMS PROVIDED FOR
 8 IN § 9010(B)(2)(B) OF THE AFFORDABLE CARE ACT.

9 [(2)] (D) Notwithstanding § 2–114 of this article, the assessment required
 10 under this section shall be distributed by the Commissioner to the Maryland Health Benefit
 11 Exchange Fund established under § 31–107 of this article.

12 Chapter 17 of the Acts of 2017, as amended by Chapters 37 and 38 of the Acts of
 13 2018

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.

15 That:

16 (b) There is a Maryland Health Insurance Coverage Protection Commission.

17 (h) (1) The Commission shall study and make recommendations for individual
 18 and group health insurance market stability, including:

19 (i) the components of one or more waivers under § 1332 of the
 20 Affordable Care Act to ensure market stability that may be submitted by the State;

21 (ii) whether to pursue a standard plan design that limits cost
 22 sharing;

23 (iii) whether to merge the individual and small group health
 24 insurance markets in the State for rating purposes;

25 (iv) whether to pursue a Basic Health Program;

26 (v) whether to pursue a Medicaid buy-in program for the individual
 27 market;

28 (vi) whether to provide subsidies that supplement premium tax
 29 credits or cost-sharing reductions described in § 1402(c) of the Affordable Care Act; [and]

1 (vii) whether to adopt a State-based individual health insurance
 2 mandate and how to use payments collected from individuals who do not maintain
 3 minimum essential coverage, including use of the payments to assist individuals in
 4 purchasing health insurance; AND

5 (VIII) WHETHER THE STATE REINSURANCE PROGRAM SHOULD
 6 BE EXTENDED AFTER CALENDAR YEAR 2023 AND, IF SO, HOW IT WILL BE FUNDED.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 8 as follows:

9 Article – Insurance

10 6–102.1.

11 (a) (1) This section applies to:

12 [(1)] (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 13 SUBSECTION, an insurer, a nonprofit health service plan, a health maintenance
 14 organization, a dental plan organization, a fraternal benefit organization, and any other
 15 person subject to regulation by the State that provides a product that:

16 [(i)] 1. is subject to the fee under § 9010 of the Affordable Care
 17 Act; and

18 [(ii)] 2. may be subject to an assessment by the State; and

19 [(2)] (II) a managed care organization authorized under Title 15, Subtitle
 20 1 of the Health – General Article.

21 (2) THIS SECTION DOES NOT APPLY TO A STAND-ALONE DENTAL
 22 PLAN CARRIER OR A STAND-ALONE VISION PLAN CARRIER.

23 SECTION 3. AND BE IT FURTHER ENACTED, That:

24 (a) The assessment established under § 6–102.1 of the Insurance Article, as
 25 enacted by Section 1 of this Act, shall apply to stand-alone dental plan carriers and
 26 stand-alone vision plan carriers.

27 (b) If the federal government confirms that under the rules that implement § 1903
 28 of the Social Security Act, which requires health care related taxes to be broad-based and
 29 uniform in order to apply to Medicaid providers, such as managed care organizations, that
 30 the State can impose a 1% assessment on Medicaid managed care organizations if it is
 31 imposing that fee on all commercial health insurance plans except dental and vision,
 32 subsection (a) of this section, with no further action required by the General Assembly,
 33 shall be abrogated and of no further force and effect.

1 (c) If the Maryland Insurance Commissioner receives notice of the confirmation
2 described in subsection (b) of this section, within 5 days after receiving notice of the
3 confirmation, the Commissioner shall:

4 (1) forward a copy of the notice to the Department of Legislative Services,
5 90 State Circle, Annapolis, Maryland 21401; and

6 (2) notify each stand-alone dental plan carrier and stand-alone vision plan
7 carrier.

8 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
9 effect contingent on the termination of Section 3(a) of this Act.

10 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this
11 Act, this Act shall take effect October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.