

Chapter 59

(House Bill 413)

AN ACT concerning

Health Insurance – Individual Market Stabilization – Extension of Provider Fee

FOR the purpose of continuing the stabilization of the individual health insurance market by extending to a certain calendar year the assessment of a health insurance provider fee; exempting stand-alone vision and dental plan carriers that are subject to the health insurance provider fee assessment from the health care regulatory assessment fee and annual assessment fee in certain years; providing that funds from the distribution of the health insurance provider fee assessment can only be used for certain purposes; and generally relating to the individual health insurance market.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 6–102.1 and 31–107(g)(4)
 Annotated Code of Maryland
 (2017 Replacement Volume and 2021 Supplement)

BY adding to
Article – Insurance
Section 6–105.3
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

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

Article – Insurance

6–102.1.

(a) This section applies to:

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

(i) was subject to § 9010 of the Affordable Care Act, as in effect on December 1, 2019; and

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

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

(b) The purpose of this section is to assist in the stabilization of the individual health insurance market by assessing a health insurance provider fee that is attributable to State health risk for calendar years 2019 through [2023] **2028**, both inclusive, as provided for under subsection (c) of this section.

(c) (1) In calendar year 2019, in addition to the amounts otherwise due under this subtitle, an entity subject to this section shall be subject to an assessment of 2.75% on all amounts used to calculate the entity's premium tax liability under § 6–102 of this subtitle or the amount of the entity's premium tax exemption value for calendar year 2018.

(2) In calendar years 2020 through [2023] **2028**, both inclusive, in addition to the amounts otherwise due under this subtitle, an entity subject to this section shall be subject to an assessment of 1% on all amounts used to calculate the entity's premium tax liability under § 6–102 of this subtitle or the amount of the entity's premium tax exemption value for the immediately preceding calendar year.

(3) The assessments required in paragraphs (1) and (2) of this subsection are for products that:

(i) were subject to § 9010 of the Affordable Care Act, as in effect on December 1, 2019; and

(ii) may be subject to an assessment by the State.

(4) The calculation of the assessments required under paragraphs (1) and (2) of this subsection shall be made without regard to:

(i) the threshold limits established in § 9010(b)(2)(A) of the Affordable Care Act; or

(ii) the partial exclusion of net premiums provided for in § 9010(b)(2)(B) of the Affordable Care Act.

(d) (1) (i) In each of fiscal years 2021 and 2022, \$100,000,000 of the funds collected from the assessment required under this section shall be transferred in accordance with subparagraphs (ii) and (iii) of this paragraph to Medical Care Provider Reimbursements (M00Q01.03) within the Medical Care Programs Administration of the Maryland Department of Health.

(ii) If all or a portion of the funds required to be transferred under subparagraph (i) of this paragraph have been received and are held in the Maryland Health Benefit Exchange Fund established under § 31–107 of this article, the Governor shall transfer the available amount in the Fund.

(iii) If the amount of funds transferred under subparagraph (ii) of this paragraph is less than the amount required to be transferred under subparagraph (i) of this paragraph, the Insurance Commissioner shall transfer the remaining amount from the funds collected from the assessment required under this section.

(2) At the beginning of each of fiscal years 2023 and 2024, the Governor shall transfer the first \$8,000,000 of the funds collected from the assessment required under this section to the Community Health Resources Commission.

(3) Notwithstanding § 2–114 of this article, the remainder of the assessment required under this section after any transfers made under paragraphs (1) and (2) of this subsection shall be distributed by the Commissioner to the Maryland Health Benefit Exchange Fund established under § 31–107 of this article.

6–105.3.

A STAND–ALONE DENTAL PLAN CARRIER OR A STAND–ALONE VISION PLAN CARRIER THAT IS SUBJECT TO THE HEALTH INSURANCE PROVIDER FEE ASSESSMENT IMPOSED UNDER § 6–102.1 OF THIS SUBTITLE IN CALENDAR YEAR 2024 AND EACH CALENDAR YEAR THEREAFTER IS EXEMPT FROM THE HEALTH CARE REGULATORY ASSESSMENT UNDER § 2–112.2 OF THIS ARTICLE AND THE ANNUAL ASSESSMENT FEE UNDER § 2–502 OF THIS ARTICLE FOR EACH YEAR IN WHICH THE HEALTH INSURANCE PROVIDER FEE IS PAID.

31–107.

(g) (4) The following funds may be used only for the purposes of funding the State Reinsurance Program:

(i) any pass–through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to carriers that offer individual health benefit plans in the State;

(ii) any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State; [and]

(iii) any funds designated by the State to provide reinsurance to carriers that offer individual health benefit plans in the State; AND

(IV) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, FUNDS RECEIVED FROM THE DISTRIBUTION OF THE ASSESSMENT UNDER § 6–102.1 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2023, the Maryland Insurance Administration, in consultation with the Maryland Health Benefit Exchange and the Maryland Health Care Commission, shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly, on the impact of the State Reinsurance Program.

(b) In developing the report, the Maryland Insurance Administration shall:

(1) consider whether the level of funding is appropriate, taking into account future population growth and projected premium growth;

(2) consider whether the assessment established under § 6–102.1 of the Insurance Article:

(i) is appropriately apportioned among the carriers;

(ii) should be broadened to include other business sectors; and

(iii) should be supplemented with General Funds;

(3) consider what market reforms are needed to provide affordable health coverage in the individual market, including:

(i) continuation of the Program past 2026;

(ii) providing State-based premium subsidies; and

(iii) expanding eligibility for the Maryland Medical Assistance Program; and

(4) evaluate the design of the Program, including whether the program parameters established under § 31–117 of the Insurance Article are appropriate in light of other individual market reforms at the State and federal level, including:

(i) the Young Adult Subsidies Program;

(ii) the Easy Enrollment Health Insurance Program;

(iii) a special or other enrollment period opened under § 31–108 of the Insurance Article; and

(iv) premium subsidies available under the American Rescue Plan Act or any other federal law.

(c) The report shall include options for obtaining sustainable funding sources to support stability in the individual market.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved by the Governor, April 12, 2022.