

SENATE BILL 59

J5

(PRE-FILED)

3lr0814
CF HB 107

By: **Senator Hester**

Requested: November 16, 2022

Introduced and read first time: January 11, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Benefit Exchange – Small Employers – Special Enrollment**
3 **Period and Marketing**

4 FOR the purpose of requiring the Maryland Health Benefit Exchange to open a special
5 enrollment period for individuals who become employed by a small employer that
6 does not offer employer–sponsored health benefit plans and the individuals’
7 dependents; altering the amount of funds required to be appropriated to the
8 Maryland Health Benefit Fund in certain fiscal years; requiring certain funds to be
9 allocated for marketing, outreach, and programs to small business and nonprofit
10 employers and their employees to facilitate enrollment in health insurance coverage;
11 and generally relating to the Maryland Health Benefit Exchange and small
12 employers.

13 BY repealing and reenacting, without amendments,
14 Article – Insurance
15 Section 31–101(a) and (aa)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Insurance
20 Section 31–107.2 and 31–108(h)
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2022 Supplement)

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

25 **Article – Insurance**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 31–101.

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

3 (aa) (1) “Small employer” means an employer that, during the preceding
4 calendar year, employed an average of not more than 50 employees.

5 (2) For purposes of this subsection:

6 (i) all persons treated as a single employer under § 414(b), (c), or (o)
7 of the Internal Revenue Code shall be treated as a single employer;

8 (ii) an employer and any predecessor employer shall be treated as a
9 single employer;

10 (iii) the number of employees of an employer shall be determined by
11 adding:

12 1. the number of full–time employees; and

13 2. the number of full–time equivalent employees, which shall
14 be calculated for a particular month by dividing the aggregate number of hours of service
15 of employees who are not full–time employees for the month by 120;

16 (iv) if an employer was not in existence throughout the preceding
17 calendar year, the determination of whether the employer is a small employer shall be
18 based on the average number of employees that the employer is reasonably expected to
19 employ on business days in the current calendar year;

20 (v) an employer that makes enrollment in qualified health plans
21 available to its employees through the SHOP Exchange, and would cease to be a small
22 employer by reason of an increase in the number of its employees, shall continue to be
23 treated as a small employer for purposes of this subtitle as long as it continuously makes
24 enrollment through the SHOP Exchange available to its employees; and

25 (vi) to the extent permitted by federal law, an entity that leases
26 employees from a professional employer organization, coemployer, or other organization
27 engaged in employee leasing and that otherwise meets the description in this section shall
28 be treated as a small employer.

29 31–107.2.

30 (a) (1) For State fiscal year 2015 and for each State fiscal year thereafter, from
31 the funds received from the distribution of the premium tax under § 6–103.2 of this article,
32 the Governor shall provide an appropriation in the State budget adequate to fully fund the
33 operations of the Exchange.

1 (2) (i) For State fiscal year 2015, the appropriation shall be no less than
2 \$10,000,000.

3 (ii) For State fiscal year 2021, the appropriation shall be
4 \$31,500,000.

5 (iii) For EACH OF State fiscal [year] YEARS 2022, 2023, and [each
6 fiscal year thereafter] 2024, the appropriation shall be \$32,000,000.

7 **(IV) FOR EACH OF STATE FISCAL YEARS 2025 THROUGH 2029,**
8 **THE APPROPRIATION SHALL BE NO LESS THAN \$37,000,000.**

9 **(V) FOR STATE FISCAL YEAR 2030 AND EACH FISCAL YEAR**
10 **THEREAFTER, THE APPROPRIATION SHALL BE \$32,000,000.**

11 (b) **(1) [Funds] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
12 **FUNDS** allocated from the premium tax under subsection (a) of this section to provide the
13 appropriation to the Exchange may be used only for the purpose of funding the operation
14 and administration of the Exchange.

15 **(2) FOR EACH OF STATE FISCAL YEARS 2025 THROUGH 2029,**
16 **\$5,000,000 OF THE APPROPRIATION REQUIRED UNDER SUBSECTION (A)(2)(IV) OF**
17 **THIS SECTION SHALL BE USED FOR MARKETING, OUTREACH, AND PROGRAMS TO**
18 **SMALL BUSINESS AND NONPROFIT EMPLOYERS THAT MEET THE DEFINITION OF**
19 **SMALL EMPLOYER AND THEIR EMPLOYEES FOR THE PURPOSE OF FACILITATING**
20 **ENROLLMENT IN HEALTH INSURANCE COVERAGE.**

21 (c) If, in any State fiscal year, the amount of the allocation from the premium tax
22 is insufficient to meet the actual expenditures incurred for the operation and
23 administration of the Exchange, the Governor may provide an additional appropriation by
24 deficiency appropriation.

25 (d) Notwithstanding § 7–304 of the State Finance and Procurement Article, funds
26 allocated to the Exchange under this section that remain unspent at the end of a fiscal year
27 shall revert to the General Fund of the State.

28 31–108.

29 (h) (1) The Exchange shall open a special or other enrollment period for an
30 individual who:

31 **(I) consents to share information through the system implemented**
32 **in accordance with § 8–109(b)(1) of the Labor and Employment Article; OR**

1 **(II) BECOMES EMPLOYED BY A SMALL EMPLOYER THAT DOES**
2 **NOT OFFER AN EMPLOYER–SPONSORED HEALTH BENEFIT PLAN.**

3 (2) The enrollment period opened under paragraph ~~[(1)]~~ **(1)(I)** of this
4 subsection shall:

5 (i) apply to qualified health plans offered through the Exchange in
6 the individual market;

7 (ii) begin on the date the Exchange sends notice to the individual;

8 (iii) last for a period of time determined by the Exchange and that is
9 at least 30 days; and

10 (iv) be available to an individual described in paragraph ~~[(1)]~~ **(1)(I)**
11 of this subsection and to the individual’s dependent as defined in 45 C.F.R. § 155.420.

12 **(3) THE ENROLLMENT PERIOD OPENED UNDER PARAGRAPH (1)(II)**
13 **OF THIS SUBSECTION SHALL:**

14 **(I) APPLY TO QUALIFIED HEALTH PLANS OFFERED THROUGH**
15 **THE EXCHANGE IN THE INDIVIDUAL MARKET;**

16 **(II) BEGIN ON THE INDIVIDUAL’S FIRST DAY OF EMPLOYMENT**
17 **BY A SMALL EMPLOYER THAT DOES NOT OFFER AN EMPLOYER–SPONSORED HEALTH**
18 **BENEFIT PLAN;**

19 **(III) LAST FOR A PERIOD OF 60 DAYS AFTER THE INDIVIDUAL’S**
20 **FIRST DAY OF EMPLOYMENT; AND**

21 **(IV) BE AVAILABLE TO AN INDIVIDUAL DESCRIBED IN**
22 **PARAGRAPH (1)(II) OF THIS SUBSECTION AND TO THE INDIVIDUAL’S DEPENDENTS**
23 **AS DEFINED IN 45 C.F.R. § 155.420.**

24 ~~[(3)]~~ **(4)** The Exchange may conduct outreach to an individual described
25 in paragraph (1) of this subsection using methods that include:

26 (i) written notices;

27 (ii) contact through telephonic and electronic means; and

28 (iii) the provision of individualized assistance by insurance agents
29 and brokers, navigators, and Exchange contractors and staff.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2024,
2 the Maryland Health Benefit Exchange shall report to the Senate Finance Committee and
3 the House Health and Government Operations Committee, in accordance with § 2–1257 of
4 the State Government Article, on the use of the special enrollment period required under §
5 31–108(h)(1)(ii) of the Insurance Article, as enacted by Section 1 of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2023. It shall remain effective for a period of 5 years and, at the end of June 30, 2028,
8 this Act, with no further action required by the General Assembly, shall be abrogated and
9 of no further force and effect.