

# SENATE BILL 972

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EMERGENCY BILL

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By: **Senators Zucker, Klausmeier, and Muse**  
Introduced and read first time: February 28, 2023  
Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Temporary Medicare Advantage Stabilization Grant Program and Fund –**  
3 **Establishment**

4 FOR the purpose of establishing the Temporary Medicare Advantage Stabilization Grant  
5 Program to subsidize certain costs of operating a Medicare Advantage Plan in the  
6 State, offset certain Medicare payment deficiencies, and increase access to certain  
7 Medicare Advantage benefits and plans; establishing the Temporary Medicare  
8 Advantage Stabilization Grant Program Fund as a special, nonlapsing fund;  
9 requiring that the interest earnings of the Fund be credited to the Fund; and  
10 generally relating to the Temporary Medicare Advantage Stabilization Grant  
11 Program.

12 BY adding to

13 Article – Health – General  
14 Section 13–4801 through 13–4807 to be under the new subtitle “Subtitle 48.  
15 Temporary Medicare Advantage Stabilization Grant Program and Fund”  
16 Annotated Code of Maryland  
17 (2019 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – State Finance and Procurement  
20 Section 6–226(a)(2)(i)  
21 Annotated Code of Maryland  
22 (2021 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – State Finance and Procurement  
25 Section 6–226(a)(2)(ii)170. and 171.  
26 Annotated Code of Maryland  
27 (2021 Replacement Volume and 2022 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – State Finance and Procurement  
3 Section 6–226(a)(2)(ii)172.  
4 Annotated Code of Maryland  
5 (2021 Replacement Volume and 2022 Supplement)

6 Preamble

7 WHEREAS, The Medicare Advantage Program is a federal program aimed at  
8 providing seniors and other Medicare beneficiaries with the choice of a managed care  
9 product that provides supplemental benefits not currently covered by the traditional  
10 Medicare fee–for–service program; and

11 WHEREAS, Based on the Centers for Medicare and Medicaid Services–determined  
12 payment tiers, Medicare Advantage Plans may offer low– or no–premium products along  
13 with care coordination support to enrollees and can allow for the expansion of coverage and  
14 benefits to Medicare enrollees throughout the State; and

15 WHEREAS, Medicare Advantage Plans have become popular with seniors across the  
16 country, with 48% of Medicare beneficiaries enrolled in Medicare Advantage Plans; and

17 WHEREAS, The enrollment rate in Maryland is much lower, with only 13% of  
18 Medicare beneficiaries in Maryland enrolled in Medicare Advantage Plans and the State  
19 having the third lowest Medicare Advantage penetration rate in the nation; and

20 WHEREAS, In Baltimore City and Prince George’s County, 80% of those enrolled in  
21 a Medicare Advantage Plan are African American; and

22 WHEREAS, Since the early 1970s, Maryland has had a unique hospital rate setting  
23 system to cover the cost of uninsured Marylanders as part of a waiver approved by the  
24 federal government; and

25 WHEREAS, This federal waiver presents unique obstacles for Maryland’s Medicare  
26 Advantage Plans due to the federal government’s Medicare Advantage payment  
27 methodology; and

28 WHEREAS, The federal Medicare Advantage payment methodology does not  
29 recognize Maryland’s rate setting system when establishing payment tiers; and

30 WHEREAS, Maryland Medicare Advantage Plans are in the lowest tier of  
31 reimbursement due to the Maryland rate setting system establishing the rates for hospital  
32 care, including for Medicare Advantage Plans; and

33 WHEREAS, Medicare Advantage Plans have experienced significant financial losses  
34 and have either exited the Maryland market or reduced their service areas in the State;  
35 and

1 WHEREAS, All Maryland seniors are impacted by the lack of Medicare Advantage  
2 options, but experience in other states shows that low-income and minority beneficiaries  
3 are most disadvantaged by the lack of Medicare Advantage options; and

4 WHEREAS, The Health Services Cost Review Commission established a 2-year  
5 grant program authorizing \$50 million each year to help stabilize the Medicare Advantage  
6 market in the State; and

7 WHEREAS, While the grant program helped to stabilize the Medicare Advantage  
8 market, the grant program expired in June 2021; and

9 WHEREAS, The Governor Hogan Administration established a Medicare Advantage  
10 Grant Program appropriating \$50 million for fiscal year 2023; and

11 WHEREAS, While the State is working with the federal government to establish a  
12 permanent Medicare Advantage payment solution, the State must act to stabilize the  
13 Medicare Advantage market in the short term to avoid further Medicare Advantage Plan  
14 service area reductions or market exits that cause severe disruption to Maryland seniors;  
15 now, therefore,

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

18 **Article – Health – General**

19 **SUBTITLE 48. TEMPORARY MEDICARE ADVANTAGE STABILIZATION GRANT**  
20 **PROGRAM AND FUND.**

21 **13-4801.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
23 **INDICATED.**

24 **(B) “COMMISSION” MEANS THE MARYLAND HEALTH CARE COMMISSION.**

25 **(C) “FUND” MEANS THE TEMPORARY MEDICARE ADVANTAGE**  
26 **STABILIZATION GRANT PROGRAM FUND.**

27 **(D) (1) “MEDICARE ADVANTAGE PLAN” MEANS A SPECIFIC PLAN**  
28 **OFFERED BY A PUBLIC OR PRIVATE ENTITY ORGANIZED AND LICENSED BY A STATE**  
29 **AS A RISK-BEARING ENTITY THAT IS CERTIFIED BY THE FEDERAL CENTERS FOR**  
30 **MEDICARE AND MEDICAID SERVICES AS MEETING THE MEDICARE ADVANTAGE**  
31 **CONTRACT REQUIREMENTS.**

32 **(2) “MEDICARE ADVANTAGE PLAN” DOES NOT INCLUDE:**

- 1                   (I)    A CHRONIC SPECIAL NEEDS PLAN;
- 2                   (II)   AN INSTITUTIONAL SPECIAL NEEDS PLAN;
- 3                   (III)   AN EMPLOYER GROUP WAIVER PLAN;
- 4                   (IV)   A PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY  
5 (PACE) PLAN; OR
- 6                   (V)    A PRIVATE FEE-FOR-SERVICE PLAN.

7           (E)    “PROGRAM” MEANS THE TEMPORARY MEDICARE ADVANTAGE  
8 STABILIZATION GRANT PROGRAM.

9 13-4802.

10           (A)    THERE IS A TEMPORARY MEDICARE ADVANTAGE STABILIZATION  
11 GRANT PROGRAM.

12           (B)    THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO:

13                   (1)    SUBSIDIZE THE DOCUMENTED COSTS OF OPERATING A MEDICARE  
14 ADVANTAGE PLAN IN THE STATE;

15                   (2)    OFFSET THE MEDICARE PAYMENT DEFICIENCIES THAT OCCUR IN  
16 THE STATE DUE TO HOW THE ALL-PAYER RATE SETTING SYSTEM FOR HOSPITAL  
17 SERVICES IMPACTS THE CENTERS FOR MEDICARE AND MEDICAID  
18 SERVICES-DETERMINED MEDICARE ADVANTAGE PAYMENT TIERS; AND

19                   (3)    INCREASE ACCESS TO SUPPLEMENTAL MEDICARE ADVANTAGE  
20 BENEFITS AND LOW- OR NO-PREMIUM PLANS TO ENROLLEES IN THE STATE.

21 13-4803.

22           THE COMMISSION SHALL ADMINISTER THE PROGRAM.

23 13-4804.

24           (A)    THE COMMISSION SHALL ESTABLISH CRITERIA FOR GRANTS TO ENSURE  
25 THAT EFFICIENT AND EFFECTIVE MEDICARE ADVANTAGE PLANS ALIGN WITH THE  
26 PURPOSE OF THE PROGRAM.

1           **(B) THE CRITERIA SHALL:**

2                   **(1) INCLUDE CONSIDERATION OF THE MEDICAL COST AND ACUITY OF**  
3 **SERVING THE MEDICARE ADVANTAGE POPULATION IN A GIVEN JURISDICTION; AND**

4                   **(2) FOR A MEDICARE ADVANTAGE PLAN THAT OPERATED IN THE**  
5 **STATE ON JANUARY 1, 2022:**

6                           **(i) REQUIRE THE MEDICARE ADVANTAGE PLAN TO MAINTAIN**  
7 **OPERATIONS IN AT LEAST THE SERVICE AREAS WHERE IT OPERATED IN CALENDAR**  
8 **YEAR 2022; AND**

9                           **(ii) PROHIBIT THE MEDICARE ADVANTAGE PLAN FROM**  
10 **REDUCING THE OFFERING OF BENEFIT PLANS TO ENROLLEES.**

11 **13-4805.**

12           **THE COMMISSION SHALL PROVIDE GRANTS UNDER THE PROGRAM ON A**  
13 **QUARTERLY BASIS BASED ON THE CENTERS FOR MEDICARE AND MEDICAID**  
14 **SERVICES-APPROVED MEMBERSHIP COUNTS OF MEDICARE ADVANTAGE PLANS IN**  
15 **THE STATE.**

16 **13-4806.**

17           **(A) THERE IS A TEMPORARY MEDICARE ADVANTAGE STABILIZATION**  
18 **GRANT PROGRAM FUND.**

19           **(B) THE PURPOSE OF THE FUND IS TO PROVIDE GRANTS UNDER THE**  
20 **PROGRAM.**

21           **(C) THE COMMISSION SHALL ADMINISTER THE FUND.**

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

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

26           **(E) THE FUND CONSISTS OF:**

27                   **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

1           **(2) INTEREST EARNINGS OR OTHER INCOME EARNED FROM THE**  
2 **INVESTMENT OF ANY MONEY FROM THE FUND; AND**

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

5           **(F) THE FUND MAY BE USED ONLY FOR PROVIDING GRANTS UNDER THE**  
6 **PROGRAM.**

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

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

11           **(H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION:**

12                   **(I) FOR FISCAL YEAR 2024, THE ANNUAL BUDGET BILL SHALL**  
13 **INCLUDE AN APPROPRIATION OF \$130,000,000 TO THE FUND; AND**

14                   **(II) FOR FISCAL YEAR 2025, THE GOVERNOR SHALL INCLUDE**  
15 **AN AMOUNT IN THE ANNUAL BUDGET BILL FOR THE FUND THAT EQUALS \$151 PER**  
16 **MEMBER PER MONTH FOR EACH ENROLLEE IN A MEDICARE ADVANTAGE PLAN**  
17 **THAT QUALIFIES UNDER THE PROGRAM.**

18           **(2) THE APPROPRIATIONS UNDER PARAGRAPH (1) OF THIS**  
19 **SUBSECTION ARE NOT REQUIRED IF THE FEDERAL GOVERNMENT IMPLEMENTS A**  
20 **MEDICARE ADVANTAGE PAYMENT SOLUTION FOR THE STATE THAT SATISFIES THE**  
21 **PURPOSE OF THE PROGRAM.**

22           **(I) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO, AND IS NOT**  
23 **INTENDED TO TAKE THE PLACE OF, FUNDING THAT OTHERWISE WOULD BE**  
24 **APPROPRIATED TO MEDICARE ADVANTAGE PLANS.**

25 **13-4807.**

26           **ON OR BEFORE FEBRUARY 1 EACH YEAR, THE COMMISSION, IN CONJUNCTION**  
27 **WITH THE CHIEF EXECUTIVE OFFICERS OR EXECUTIVE DIRECTORS OF ENTITIES**  
28 **THAT OFFER MEDICARE ADVANTAGE PLANS THAT QUALIFY FOR GRANTS UNDER**  
29 **THE PROGRAM, SHALL REPORT TO THE SENATE FINANCE COMMITTEE, THE SENATE**  
30 **BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE,**  
31 **AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN**  
32 **ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON:**

1           **(1) THE TOTAL AMOUNT AWARDED TO MEDICARE ADVANTAGE**  
2 **PLANS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR;**

3           **(2) THE MEDICARE ADVANTAGE PLANS THAT RECEIVED GRANTS**  
4 **AND THE AMOUNT EACH RECEIVED IN THE IMMEDIATELY PRECEDING CALENDAR**  
5 **YEAR;**

6           **(3) THE IMPACT OF THE PROGRAM ON:**

7                   **(I) MEDICARE ADVANTAGE PLAN ENROLLEE BENEFITS BY**  
8 **COUNTY; AND**

9                   **(II) THE AVAILABILITY OF LOW- OR NO-PREMIUM MEDICARE**  
10 **ADVANTAGE PLANS BY COUNTY;**

11           **(4) THE STATUS OF THE CENTERS FOR MEDICARE AND MEDICAID**  
12 **SERVICES IMPLEMENTING A MEDICARE ADVANTAGE PAYMENT SOLUTION FOR THE**  
13 **STATE; AND**

14           **(5) RECOMMENDATIONS FOR THE FUTURE OF THE PROGRAM OR**  
15 **OTHER ALTERNATIVES.**

16                           **Article – State Finance and Procurement**

17 6–226.

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

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

26                           170. the Cannabis Public Health Fund; [and]

27                           171. the Community Reinvestment and Repair Fund; AND

28                           **172. THE TEMPORARY MEDICARE ADVANTAGE**  
29 **STABILIZATION GRANT PROGRAM FUND.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
2 measure, is necessary for the immediate preservation of the public health or safety, has  
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
4 each of the two Houses of the General Assembly, and shall take effect from the date it is  
5 enacted. It shall remain effective through June 30, 2025, and, at the end of June 30, 2025,  
6 this Act, with no further action required by the General Assembly, shall be abrogated and  
7 of no further force and effect.