

Chapter 468

(House Bill 1082)

AN ACT concerning

**Health Insurance – Individual Market Stabilization – Establishment of the
State–Based Health Insurance Subsidies Program**

FOR the purpose of establishing the State–Based Health Insurance Subsidies Program to provide subsidies to individuals in the State to mitigate the impact of a reduction in certain federal advance premium tax credits in ~~a~~ certain calendar ~~year~~ years; requiring the Maryland Health Benefit Exchange to implement the Program under certain circumstances; and generally relating to the individual health insurance market.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 31–107

Annotated Code of Maryland

(2017 Replacement Volume and 2024 Supplement)

BY adding to

Article – Insurance

Section 31–125

Annotated Code of Maryland

(2017 Replacement Volume and 2024 Supplement)

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

Article – Insurance

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 subtitle;

(ii) provide funding for the establishment and operation of the State Reinsurance Program authorized under this subtitle;

(iii) provide funding for the Medical Assistance Program and the Senior Prescription Drug Assistance Program;

(iv) provide funding for the establishment and operation of Health Equity Resource Communities under Title 20, Subtitle 14 of the Health – General Article; [and]

(v) provide funding for the establishment and operation of the State–Based Young Adult Health Insurance Subsidies Pilot Program authorized under this subtitle; AND

(VI) PROVIDE FUNDING FOR THE ESTABLISHMENT OF STATE–BASED HEALTH INSURANCE SUBSIDIES TO MITIGATE THE IMPACT OF A REDUCTION IN FEDERAL ADVANCE PREMIUM TAX CREDITS UNDER 26 U.S.C. § 36B(B)(3)(A)(III).

(2) The operation and administration of the Exchange, the State Reinsurance Program, the State–Based Young Adult Health Insurance Subsidies Pilot Program, and the Qualified Resident Enrollment 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) income from investments made on behalf of the Fund;

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

(5) 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;

(6) money donated to the Fund;

(7) money awarded to the Fund through grants;

(8) any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act;

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

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

(11) any funds designated by the State to provide State-based health insurance subsidies to young adults in the State;

(12) ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE STATE-BASED HEALTH INSURANCE SUBSIDIES TO INDIVIDUALS IN THE STATE TO MITIGATE THE IMPACT OF A REDUCTION IN FEDERAL ADVANCE PREMIUM TAX CREDITS UNDER 26 U.S.C. § 36B(B)(3)(A)(III);

[(12)] (13) any federal funds received in accordance with § 31–121 of this subtitle for the administration of small business tax credits; and

[(13)] (14) any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only:

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

2. for the establishment and operation of the State Reinsurance Program; and

3. for appropriations to the Health Equity Resource Community Reserve Fund under § 20–1407 of the Health – General Article;

(ii) in fiscal years 2021 and 2022, for the Medical Assistance Program within the Medical Care Programs Administration of the Maryland Department of Health;

(iii) in fiscal year 2022, for the Senior Prescription Drug Assistance Program established under Title 15, Subtitle 10 of the Health – General Article; [and]

(iv) for the establishment and operation of the State-Based Young Adult Health Insurance Subsidies Pilot Program; AND

(V) IN FISCAL YEARS 2026 ~~AND 2027~~ THROUGH 2028, FOR THE ESTABLISHMENT OF STATE-BASED HEALTH INSURANCE SUBSIDIES TO MITIGATE

THE IMPACT OF A REDUCTION IN FEDERAL ADVANCE PREMIUM TAX CREDITS UNDER 26 U.S.C. § 36B(B)(3)(A)(III).

(2) In each of fiscal years 2023 through 2025, the Governor shall:

(i) transfer \$15,000,000 to the Health Equity Resource Community Reserve Fund; and

(ii) include the funds transferred in accordance with item (i) of this paragraph in the annual budget bill as an appropriation to the Health Equity Resource Community Reserve Fund under § 20–1407 of the Health – General Article.

(g) (1) The Board shall maintain separate accounts within the Fund for Exchange operations, for the State Reinsurance Program, and for the State–Based Young Adult Health Insurance Subsidies Pilot Program.

(2) Accounts within the Fund shall contain the money that is 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) 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].

(5) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, FUNDS RECEIVED FROM THE DISTRIBUTION OF THE ASSESSMENT UNDER § 6–102.1 OF THIS ARTICLE MAY BE USED ONLY FOR PURPOSES OF FUNDING THE STATE REINSURANCE PROGRAM AND THE STATE–BASED HEALTH INSURANCE SUBSIDIES 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.

31–125.

(A) IN THIS SECTION, “PROGRAM” MEANS THE STATE–BASED HEALTH INSURANCE SUBSIDIES PROGRAM.

(B) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A STATE–BASED HEALTH INSURANCE SUBSIDIES PROGRAM TO PROVIDE SUBSIDIES TO INDIVIDUALS FOR THE PURCHASE OF HEALTH BENEFIT PLANS IN THE INDIVIDUAL HEALTH INSURANCE MARKET.

(C) THE PROGRAM REQUIRED UNDER THIS SECTION SHALL BE DESIGNED TO:

(1) MAINTAIN AFFORDABILITY FOR INDIVIDUALS PURCHASING HEALTH BENEFIT PLANS THROUGH THE EXCHANGE; AND

(2) TARGET INDIVIDUALS WHO EXPERIENCE AN INCREASE IN THE APPLICABLE PERCENTAGES ESTABLISHED UNDER 26 U.S.C. § 36B(B)(3)(A)(III) FOR PREMIUMS BASED ON HOUSEHOLD INCOME IN CALENDAR ~~YEAR 2026~~ YEARS 2026 AND 2027, AS COMPARED TO THE APPLICABLE PERCENTAGES IN PLACE FOR CALENDAR YEAR 2025.

(D) SUBJECT TO AVAILABLE FUNDS, FOR CALENDAR ~~YEAR 2026~~ YEARS 2026 AND 2027, THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR THE PROGRAM THAT:

(1) MITIGATE A REDUCTION IN ADVANCE PREMIUM TAX CREDITS BECAUSE OF CHANGES IN THE APPLICABLE PERCENTAGES DESCRIBED IN SUBSECTION (C)(2) OF THIS SECTION; ~~AND~~

(2) MAXIMIZE ENROLLMENT IN THE INDIVIDUAL MARKET;

(3) TAKE INTO CONSIDERATION STATE FUNDS NEEDED TO ENSURE THE STATE REINSURANCE PROGRAM CONTINUES TO PROVIDE MARKET STABILITY THROUGH CALENDAR YEAR 2028; AND

(4) TAKE INTO CONSIDERATION UNCERTAINTIES IN ENROLLMENT IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM, THE INDIVIDUAL MARKET, AND THE SMALL GROUP MARKET DUE TO CHANGES IN STATE AND FEDERAL REGULATION AND FUNDING.

(E) IN FISCAL YEARS 2026 ~~AND 2027~~ THROUGH 2028, THE EXCHANGE MAY DESIGNATE FUNDS FROM THE FUND TO BE USED FOR THE PROGRAM.

(F) THE EXCHANGE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(G) (1) THE EXCHANGE SHALL TRACK ON A MONTHLY BASIS EXPENDITURES ON SUBSIDIES PROVIDED UNDER THE PROGRAM, INCLUDING:

(I) THE AVERAGE NUMBER OF INDIVIDUALS RECEIVING SUBSIDIES UNDER THE PROGRAM;

(II) THE AVERAGE SUBSIDY AMOUNT RECEIVED BY INDIVIDUALS UNDER THE PROGRAM; AND

(III) THE IMPACT THE PROGRAM HAS ON RATES IN THE INDIVIDUAL INSURANCE MARKET.

(2) THE INFORMATION TRACKED BY THE EXCHANGE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:

(I) POSTED ON THE WEBSITE OF THE EXCHANGE; AND

(II) INCLUDED IN THE ANNUAL REPORT REQUIRED UNDER § 31-119(D) OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) Section 1 of this Act is contingent on the federal government eliminating or significantly reducing advanced premium tax credits under 26 U.S.C. § 36B(b)(3)(A)(iii) and the Maryland Health Benefit Exchange Board and the Insurance Commissioner determining that the elimination or reduction in advanced premium tax credits will cause an increase of at least 15% in average premiums net of federal advance premium tax credits in the individual market in the State.~~

~~(b) Within 5 days after making the determination described in subsection (a) of this section, the Exchange and the Commissioner shall notify the Department of Legislative Services.~~

~~(c) If notice is received by the Department of Legislative Services in accordance with subsection (b) of this section on or before July 1, 2026, Section 1 of this Act shall take effect on the date the notice is received by the Department of Legislative Services. It shall remain effective through July 1, 2027, and, at the end of July 1, 2027, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

~~(d) If notice is not received by the Department of Legislative Services on or before July 1, 2026, Section 1 of this Act, with no further action required by the General Assembly, shall be null and void.~~

(a) If the advance premium tax credits under 26 U.S.C. § 36B(b)(3)(A)(iii) are extended for calendar years 2026 and 2027, Section 1 of this Act shall, with no further action required by the General Assembly, be abrogated and of no further force and effect.

(b) Within 5 days of a change in federal law as described in subsection (a) of this section, the Maryland Health Benefit Exchange Board and the Maryland Insurance Commissioner shall notify the Department of Legislative Services of the change.

SECTION 3. AND BE IT FURTHER ENACTED, That, ~~subject to Section 2 of this Act,~~ this Act shall take effect ~~July~~ June 1, 2025. Subject to Section 2 of this Act, this Act shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2028,

this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 13, 2025.