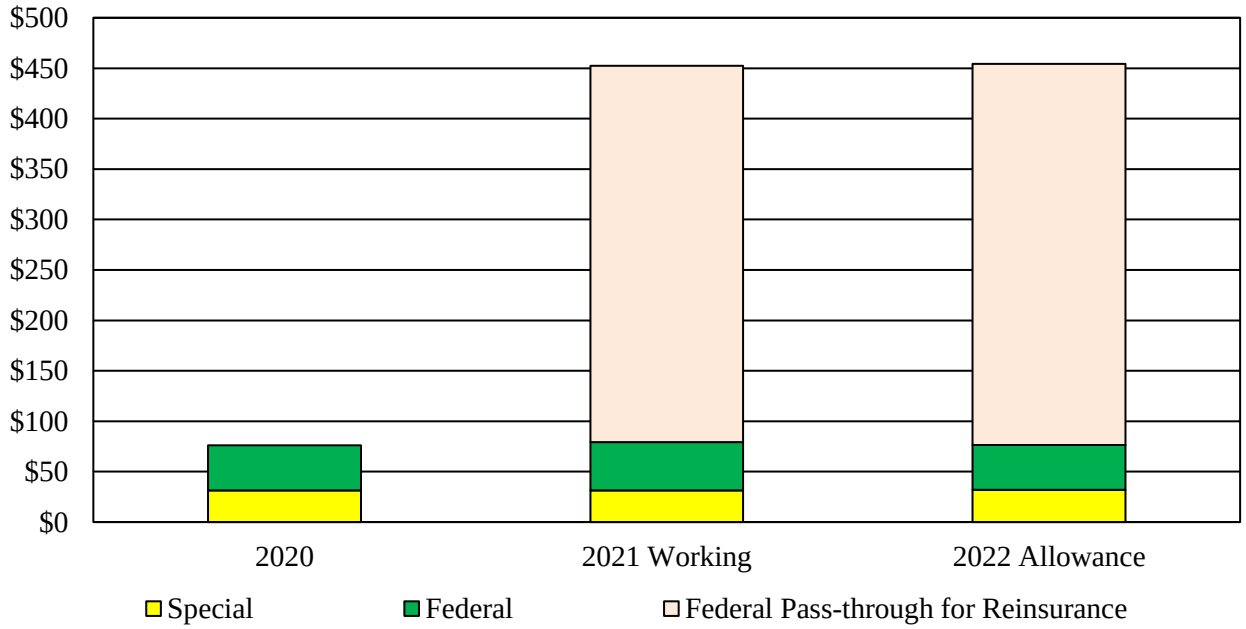
D78Y01
Maryland Health Benefit Exchange

Program Description

The Maryland Health Benefit Exchange (MHBE) was created during the 2011 session in response to the federal Patient Protection and Affordable Care Act (ACA) of 2010. MHBE provides a marketplace for individuals and small businesses to access affordable or no-cost health coverage. Through the Maryland Health Connection (MHC), Maryland residents can shop for health insurance plans; compare rates; and determine their eligibility for tax credits, cost-sharing reductions, and public assistance programs such as Medicaid. Once an individual or family selects a Qualified Health Plan (QHP) or available program, they enroll in it directly through MHC. Under the ACA, to be certified as a QHP, an insurance plan must meet certain requirements, including providing at least 10 essential health benefits with no lifetime maximums and following established limits on cost-sharing. The same rules apply to plans sold both in and out of the exchange but, in order to be sold on the exchange, a health plan must also be certified by the exchange as a QHP. Premium subsidies are only available to plans purchased on the exchange by eligible individuals.

Operating Budget Summary

Fiscal 2022 Budget Increases $1.9 Million, or 0.4%, to $454.5 Million
($ in Millions)



Note: Fiscal 2021 includes deficiency appropriations and general salary increases. Fiscal 2022 includes contingent reductions, annual salary review adjustments, and annualization of the general salary increases.

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- The largest increase in the fiscal 2022 allowance is related to the anticipated cost of reinsurance payments as determined by an actuarial analysis released in calendar 2020 ($4.7 million). This increase is after accounting for a deficiency appropriation withdrawing excess special funds in fiscal 2021, although it is understated because the fiscal 2021 budget includes excess federal funds not needed for payments.

- Excluding changes in estimated reinsurance payments, the fiscal 2022 allowance of MHBE decreases by $2.9 million. The Budget Reconciliation and Financing Act (BRFA) of 2021 proposes to permanently decrease the mandated appropriation from the distribution of premium tax revenue to MHBE from $35 million to $32 million. The fiscal 2022 allowance includes a special fund contingent reduction to effectuate that change. Due to a one-time reduction in the mandate for fiscal 2021 in the BRFA of 2020 and a separate budgetary reduction approved by the General Assembly, the proposed level of special funds in fiscal 2022 is higher than fiscal 2021. However, the fiscal 2022 budget also includes an associated federal fund contingent reduction ($4.16 million) due to lost matching funds related to this change, which more than offsets that increase.

Fiscal 2021

Proposed Deficiency

The fiscal 2022 budget includes one deficiency appropriation for MHBE. This deficiency appropriation withdraws $88.6 million in special funds from a health insurance provider assessment intended to support the costs of the reinsurance program in fiscal 2021. As discussed further in Key Observation 2, these funds were unneeded to pay for costs of the program in fiscal 2021 due to lower than expected costs. This withdrawal has no impact on the reinsurance payments for plan year 2019, which were paid earlier in fiscal 2021. In fact, the remaining federal funds included in the appropriation ($373 million) for the program were more than was required for these payments by approximately $20 million.

Cost Containment

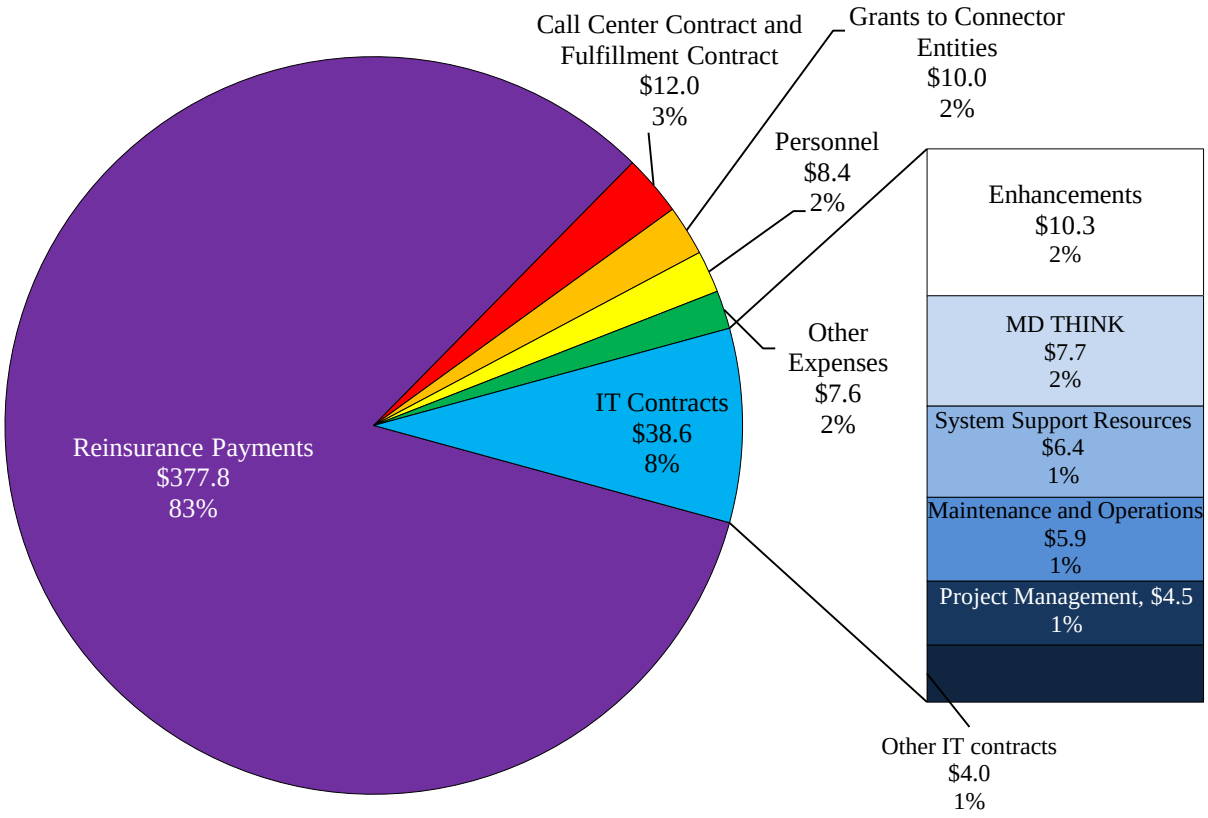
MHBE's fiscal 2021 appropriation was reduced by $16,101 ($9,428 in special funds and $6,673 in federal funds) due to a statewide reduction in State agency unemployment insurance contributions approved by the Board of Public Works on July 1, 2020.

Fiscal 2022 Overview of Agency Spending

MHBE's fiscal 2022 allowance totals $454.5 million, accounting for contingent reductions and statewide personnel adjustments. As shown in **Exhibit 1**, approximately 83% of the budget is comprised of the federal pass-through funds for reinsurance payments. Excluding those payments, the largest component of the budget ($38.6 million) is dedicated to information technology (IT)-related

contracts and activities. This funding supports the hosting of data on Amazon Web Services as part of the Maryland Total Human-services Integrated Network (MD THINK) shared platform, MD THINK-related software license costs, other software licenses, the customer relations management software, and IT independent contractors that are primarily funded through contracts. In total, $26.9 million of the fiscal 2022 allowance supports the IT independent contractors that are responsible for enhancements to MHC and websites/apps, maintenance and operations, system support, and project management. An additional $0.8 million is for IT independent contractors that are expected to continue development of the Small Business Health Options (SHOP) platform.

Exhibit 1
Overview of Agency Spending
Fiscal 2022 Allowance
($ in Millions)



IT: information technology
MD THINK: Maryland Total Human-services Integrated Network

Note: Fiscal 2022 allowance includes contingent reductions related to the proposed change in mandate as well as annual salary review adjustments and annualized general salary increases. Other expenses include $140,000 of federal pass-through funds used for activities supporting the reinsurance program.

Source: Governor's Fiscal 2022 Budget Books

Proposed Budget Change

As shown in **Exhibit 2**, the fiscal 2022 allowance of MHBE increases by $1.9 million, or 0.4%, compared to the fiscal 2021 working appropriation after accounting for deficiency appropriations, contingent reductions, and statewide personnel adjustments. The largest increase ($4.7 million) occurs in funding for the reinsurance payments to reflect the most recent estimated costs for the 2020 plan year ($377.8 million). However, as noted above, the fiscal 2021 appropriation overstates the level of payments made in that year. Accounting for this overstatement, the anticipated increase in payments between years is approximately $25 million. The Department of Legislative Services (DLS) notes though the actual level in payments for the 2020 plan year, to be paid in fiscal 2022, will not be known until June or July 2021.

Exhibit 2
Proposed Budget
Maryland Health Benefit Exchange
($ in Thousands)

How Much It Grows:	**Special Fund**	**Federal Fund**	**Total**
Fiscal 2020 Actual	$31,463	$44,650	$76,112
Fiscal 2021 Working Appropriation	31,355	421,199	452,554
Fiscal 2022 Allowance	32,093	422,364	454,458
Fiscal 2021-2022 Amount Change	$738	$1,165	$1,903
Fiscal 2021-2022 Percent Change	2.4%	0.3%	0.4%

Where It Goes:	**Change**
Personnel Expenses	
Annualization of fiscal 2021 2% general salary increase	$71
Employee and retiree health insurance	69
Annual salary review adjustments for a one-grade increase for 3 positions in the fiscal services classification	20
Restoration of one-time reduction in unemployment insurance contributions	16
Employee retirement	-25
Regular earnings due to filling and budgeting vacant positions at lower salaries	-70
Other fringe benefit adjustments	-5
Reinsurance Program and Other Initiatives	
Reinsurance payments based on actuarial analysis of 2020 program year costs	4,671
Marketing contract primarily for increased awareness year round about options, including specifically about life event-related special enrollment periods	931
Actuarial services primarily for a potential State Reinsurance Program waiver extension, a waiver application for administration of the federal small business health insurance tax credit, and individual market subsidies	160
Additional studies by the Hilltop Institute including those related to the MEEHP, impact of the value plan, and health insurance effectuation and termination patterns	100

Where It Goes:	**Change**
Information Technology Changes	
Server utilization costs due to current trends of costs on the MD THINK Shared Platform	661
Enhancements resources due to a 3.5% increase in the blended payment rate as well as planned additional resources or increased hours due to planned enhancement activity	500
System support due to additional resources as agency continues to transition from outside contracts for services	421
Maintenance and operations and project management resources due to a 3.5% increase in blended rate with no changes in number of resources	400
SHOP system to develop additional features including integration of platform with carrier systems and for employers to enroll in plans for employees online	102
MD THINK-related software costs due to inflation	101
Carasoft customer relations management software due to lower cost of certain licenses and fewer short-term licenses	-125
Administrative Expenses	
Printing and fulfillment contract due to additional notices primarily from higher enrollment, Medicaid certification extensions, and verification documents	400
Contract for a policy technical writer to formally document and/or update internal policies and procedures	320
Office of Administrative Hearings allocation	156
Language line due to increased utilization	150
Delay in paid internships in information technology and marketing until after remote work period ends	-51
Call center contract to reflect reduction in mandate as proposed in the BRFA	-7,121
Other changes	53
Total	**$1,903**

BRFA: Budget Reconciliation and Financing Act
MD THINK: Maryland Total Human-services Integrated Network
MEEHP: Maryland Easy Enrollment Health Insurance Program
SHOP: Small Business Health Options

Note: Numbers may not sum to total due to rounding.

IT Enhancements

The fiscal 2022 allowance increases funding for IT activities by approximately $2.0 million, of which $1.3 million is for independent contractors for system support, maintenance and operations, project management, and enhancements. These increases support additional resources to continue the transition from outside contracts to these independent contractors and for additional enhancement-related work as well as an increase in the blended hourly rate for these resources.

MHBE identified 29 enhancements planned with the $10.2 million budgeted for fiscal 2022, which address the agency's websites/mobile apps, MHC consumer and worker portals, eligibility and enrollment improvements, and accommodating changes in Medicaid. These enhancements fall under several categories:

- ***Medicaid Changes:*** to implement policy changes or improved customer experience, including hospital presumptive eligibility, newborn enrollment, allowing parenting and pregnant minors to become primary applicants, and requesting Medicaid cards through the consumer or worker portals;

- ***Program Improvements or Policy Changes:***

  - to implement a real-time payment option for individuals selecting CareFirst Plans;

  - to implement the second phase of the Maryland Easy Enrollment Health Insurance Program (MEEHP) (discussed further in Key Observation 3), and

  - to implement a State subsidy program (under legislative consideration);

- ***Consumer Assistance:*** to enhance options, including additional on-demand features for contact with insurance agents/brokers or the call center, secure messaging, and other automated assistance in the eligibility and enrollment system;

- ***Website and App Updates:*** to modernize the stakeholder website and Enroll MHC mobile app;

- ***Worker Portal and Verification Improvements:*** to continue to improve intake, verification, and case review processes, adding unemployment insurance income to data received from the Maryland Department of Labor for eligibility and verification, and creating an on-demand document portal for sending information on needed verifications; and

- ***System Reports, Performance, and Security:*** to implement, continue, or enhance system performance, security tracking (including personally identifiable information breaches), reduce manual processes, and create data visualization and/or reports.

Personnel Data

	FY 20 Actual	FY 21 Working	FY 22 Allowance	FY 21-22 Change
Regular Positions	67.00	67.00	67.00	0.00
Contractual FTEs	0.00	2.44	0.00	-2.44
Total Personnel	**67.00**	**69.44**	**67.00**	**-2.44**
Vacancy Data: Regular Positions				
Turnover and Necessary Vacancies, Excluding New Positions		2.68	4.00%	
Positions and Percentage Vacant as of 12/31/20		7.00	10.45%	
Vacancies Above Turnover		4.32		

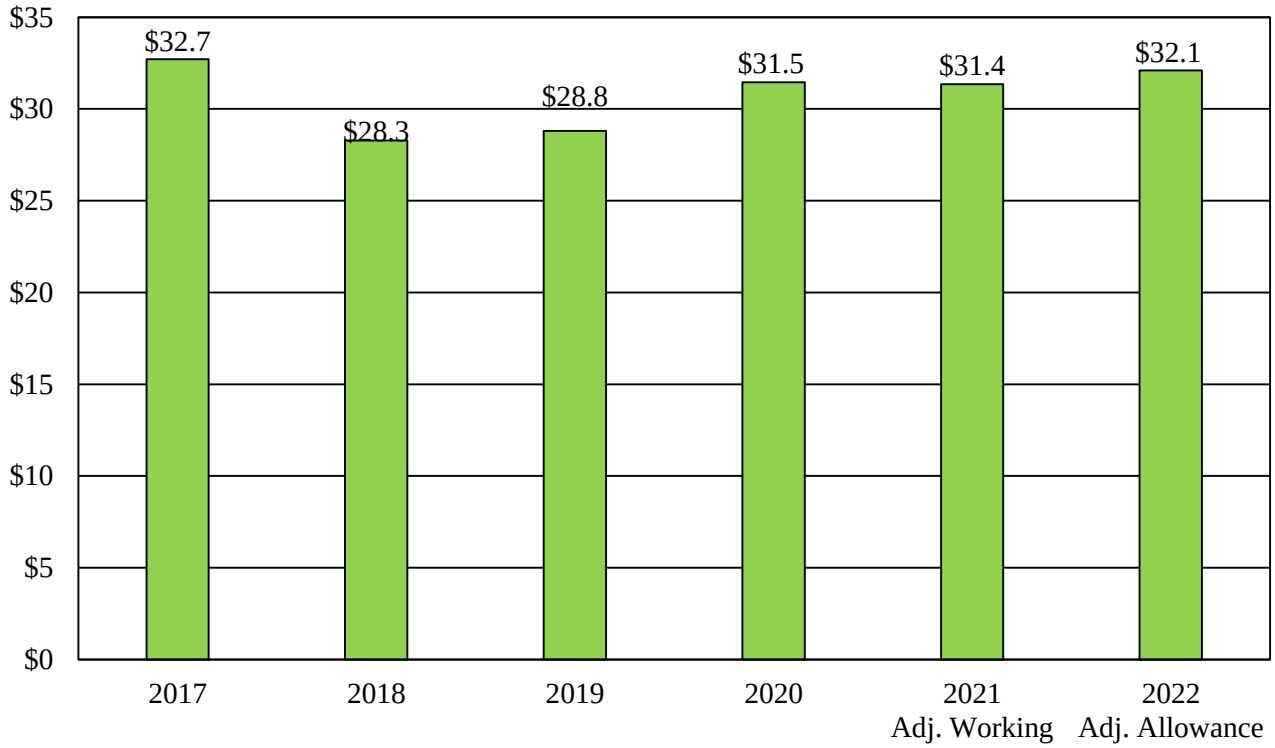
- Of the 7 vacant positions, as of December 31, 2020, 4 had been vacant for longer than nine months. MHBE indicates that these long-term vacant positions were the result of the statewide hiring freeze implemented in April 2020. MHBE indicates that, as of February 2021, it has only 5 remaining vacancies. Two of the vacant positions are expected to be used for implementing additional Small Business Health Options program (SHOP) activities and are dependent on the available funding for those activities. **MHBE should comment on the need for these positions if it does not proceed with enhancing its small business activities.**

Key Observations

1. BRFA of 2021 and Long-term Funding Sustainability

Chapter 159 of 2013 established a distribution from the premium tax on health insurers as operating funding for the MHBE Fund and mandated a minimum level of appropriation for MHBE. Beginning in fiscal 2016, the mandated appropriation was $35 million. Unspent funding not used by MHBE reverts to the General Fund. As shown in **Exhibit 3**, MHBE has not generally required all of the operating funding available to it under its mandated appropriation. In response to a requirement of budget bill language in fiscal 2021, MHBE explained that these lower spending levels reflected a conservative approach in predicting call center costs. When call center spending was lower than estimated, the agency indicated that it did not have sufficient time to alter the spending plan. MHBE indicates that, going forward, it can more accurately project call center costs, preventing similar recurrences.

Exhibit 3
Maryland Health Benefit Exchange Fund Operating Spending
Fiscal 2017-2022
($ in Millions)



Note: The fiscal 2021 working appropriation includes adjustments for the January 1, 2021 general salary increase. The fiscal 2022 allowance includes the annual salary review adjustments and annualization of the general salary increase.

Source: Governor's Fiscal 2019-2022 Budget Books; Department of Legislative Services

Recent Budget Actions

In recent years, the General Assembly and Governor have taken action to reduce the funds available to MHBE to better align with anticipated spending. For fiscal 2020, the General Assembly reduced $1.0 million of the appropriation to reflect the lower call center costs. In addition, the fiscal 2021 budget plan of the Governor assumed $3.0 million in additional general fund revenue from anticipated underspending in fiscal 2020, though ultimately the level of spending was slightly higher than the combined impact of these actions. As introduced, the BRFA of 2020 would have permanently lowered the mandate to $32.0 million beginning in fiscal 2021 but, as enacted, it reduced the mandated for fiscal 2021 only to $31.5 million. However, a separate action further reduced the appropriation due to one-time savings.

BRFA of 2021

The BRFA of 2021 proposes once again to reduce the mandate to $32.0 million permanently, which appears feasible given the agency's spending history. The fiscal 2022 budget includes a $3.0 million special fund reduction contingent on that action. As shown in Exhibit 3, this reduction actually results in a net increase in the special fund appropriation in fiscal 2022. However, it does result in a lower overall appropriation, in non-reinsurance-related spending, of $3.7 million. This occurs because language on MHBE's federal fund appropriation would reduce $4.16 million as a result of the mandate change recognizing the loss of federal fund match from Medicaid that would result from the reduced spending, while the fiscal 2021 budget does not yet account for any federal fund impact of the mandate change in that year.

MHBE currently plans to accommodate the entire mandate reduction within its call center contract, resulting in a budget of $8.2 million, which is 62% of its fiscal 2020 actual spending on the contract. MHBE indicates that this reduction would result in reduced service during periods outside of the open enrollment period leading to longer wait times, an increase in abandoned calls, and referrals for Medicaid-related questions to either local health departments or local departments of social services. However, DLS notes that, in fiscal 2021, the reduction was spread among various contracts, which would limit the impact in any one area. As shown in Exhibit 2, the budget proposes to increase funding for a variety of activities while assuming the reduction only in this one contract.

Long-term Funding Sustainability

Language in the fiscal 2021 Budget Bill (Chapter 19 of 2020) restricted $450,000 of MHBE's appropriation until the agency submitted an evaluation of its long-term funding needs. The evaluation was to take into account current required activities and any activities required in legislation enacted in the 2020 session. In its response, MHBE stated that it would require $37.5 million, higher than the mandate under current law. The additional funding would support 23 additional positions, of which 17 would be IT staff to provide for additional management of the procured resources and allow the agency to reduce a portion of the procured resources. The remaining 6 additional positions would be (1) a policy position to track legislation and serve as a liaison with State and local governments; (2) a compliance financial auditor; (3) a position to support quality assurance at the call center; (4) a position to improve training for customer assistance workers; (5) a position to provide administrative support; and (6) a finance position due to increased workload,

Other activities that MHBE indicates would be supported with increased funding include enhanced marketing, increased actuarial support, a technical writer to rewrite internal policies and procedures, a project manager to improve internal processes, and an expansion of its small business activities. The enhanced small business activities include enhancements to its SHOP platform and its plan to apply for a State Innovation Waiver to allow the agency to implement the federal Small Business Health Insurance Tax Credit.

DLS notes that MHBE's fiscal 2022 budget, accounting for a special fund appropriation of $32 million, includes funding to increase marketing, implement enhancements to the SHOP platform, hire a technical writer on contract, and increase actuarial services. In addition, MHBE indicates that it

has 2 vacant positions that it intends to use for enhancing small business activities. As a result, it is unclear that these activities would necessitate an increase in the agency's appropriation. Therefore, the primary remaining need would be related to positions. **Having met the requirements of the language, DLS recommends the release of the $450,000 in special funds and will write a letter to this effect if no objections are raised at the budget hearing.**

2. Reinsurance Program Costs Lower Than Expected in Year 1; BRFA Proposes to Alter Use of Provider Assessment Funds No Longer Required for Program

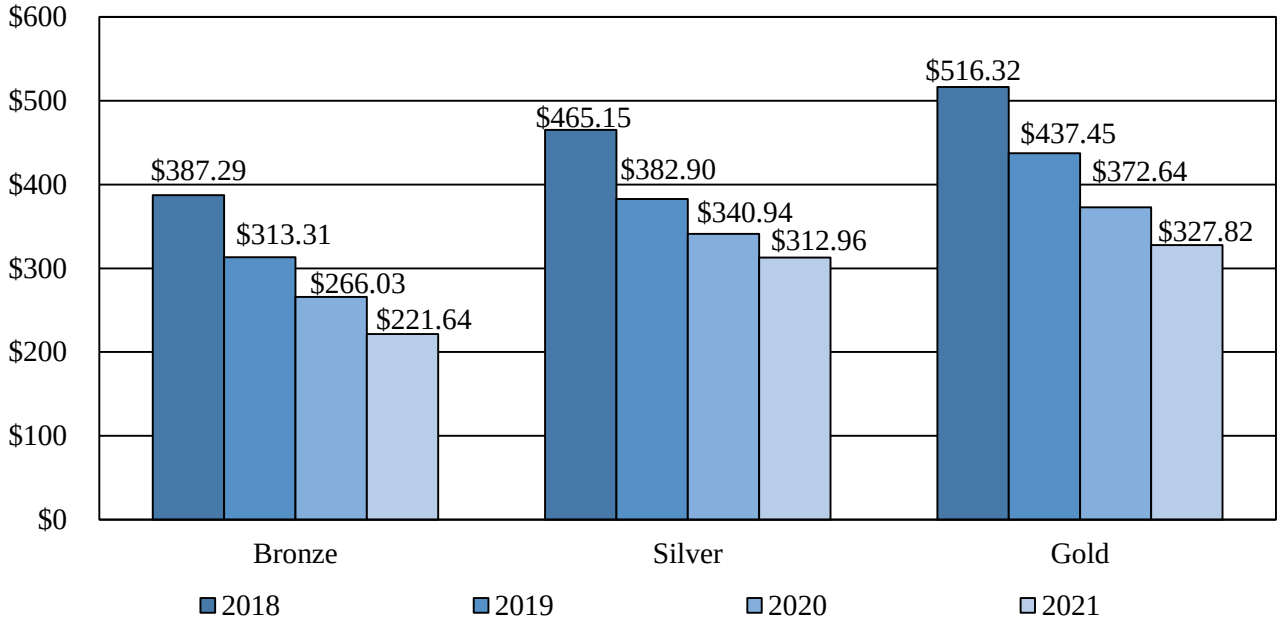
Reinsurance is insurance for carriers that protects against significant losses. Chapters 6 and 7 of 2018 required MHBE to submit an application for a State Innovation Waiver under Section 1332 of the ACA to establish a State Reinsurance Program and seek federal pass-through funding. The federal government approved the waiver in August 2018. The waiver is approved through plan year 2023.

In the 2019 and 2020 plan years, the State Reinsurance Program provided reinsurance to carriers offering individual health benefit plans in the State. Carriers that incurred total annual claims costs on any individual between a $20,000 attachment point (the dollar amount of insurer costs above which an insurer is eligible for reinsurance) and a cap of $250,000 are to be reimbursed for 80% of those claims costs. MHBE maintained these parameters for the State Reinsurance Program for the 2021 plan year.

Reinsurance Program Continues to Lower Individual Market Rates

Approval of the Section 1332 Waiver and the availability of federal pass-through funds for the State Reinsurance Program has substantially reduced individual market premium rates approved by the Maryland Insurance Administration (MIA) for each plan year since the program began. MIA indicates that the average premium rate decreases exceeded 10% for each plan year 2019 through 2021. **Exhibit 4** provides examples of the monthly premiums for the 2018 through 2021 plan years as calculated by MIA for various metal levels for an individual age 40 in the Carefirst BlueChoice plans. In this example, the combined decrease between 2018 and 2021 in the sample bronze plan totaled 42.8%, while silver and gold decreases were 32.7% and 36.5%, respectively. The magnitude of changes varies between carriers and plan types. Of note, for the 2021 plan year, an additional carrier reentered the market in some jurisdictions, which increased options for coverage.

Exhibit 4
Sample Monthly Premiums for a 40-year-old in a Carefirst BlueChoice Plan
Calendar 2018-2021



Note: Actual premiums will vary from sample rates based on carrier, plan, age, and other factors. These premiums represent samples of premiums without the Advanced Premium Tax Credit. The examples in this exhibit are for individuals living in the Baltimore Metro Area (Anne Arundel, Baltimore, Harford, and Howard counties and Baltimore City).

Source: Maryland Insurance Administration

First Year Program Cost Lower Than Expected; Future Cost Estimates Revised Downward

Reinsurance payments are determined on a lag after the program year has ended due to timing of claims. It then takes several additional months to make payments to carriers. As a result, payments to carriers for the 2019 plan year were made in the first quarter of fiscal 2021. Due to the lag, considerable uncertainty existed during the 2020 session regarding the program costs, even for 2019. At that time, there were two formal estimates: (1) an actuarial analysis submitted with the Section 1332 Waiver request conducted by Wakely Consulting Group (Wakely); and (2) an actuarial analysis produced by Lewis & Ellis in calendar 2019 to assist in determining 2020 plan year parameters. As shown in **Exhibit 5**, the 2019 plan year cost estimates were widely different between these analyses, as were the 2020 plan year cost estimates. As a result of the considerable uncertainty in both current and future costs, the 2020 *Joint Chairmen's Report* (JCR) requested that MHBE submit a report that included the final payment amounts for the 2019 plan year as well as an updated forecast of spending and funding needs over the waiver period.

Exhibit 5
Reinsurance Funding Cost Comparison
2019-2025 Plan Year
($ in Millions)

	2019	2020	2021	2022	2023	*Costs During Waiver Period*	2024	2025	Total Estimated Cost
Wakely (Waiver Application)	$462.0	$459.0	$223.0						**$1,144.0**
Lewis & Ellis (2020 Analysis)	$370.3	$400.1	$426.8	$457.8	$490.0	***$2,144.9***	$523.6	$228.1	**$2,896.6**
Lewis & Ellis (2021 Analysis)	$352.8	$377.8	$416.8	$448.0	$478.4	***$2,073.8***	$510.2	$543.1	**$3,127.1**

Note: In the analysis for the 2020 program year, Lewis & Ellis assumed costs after the end of the waiver for one full year and one partial year, while for the 2021 program year, Lewis & Ellis assumed those costs for two full years. After the waiver period, costs are born by the State as federal pass-through funds are unavailable.

Source: Maryland Health Benefit Exchange; Lewis & Ellis Actuaries and Consultants; Wakely Consulting Group

Given the uncertainty, the fiscal 2021 budget accounted for the higher end estimate of Wakely. As shown in Exhibit 5, actual program costs of the 2019 plan year were lower than either estimate, $17.5 million lower than the Lewis & Ellis estimate, and $109.2 million lower than the Wakely estimate. In the updated forecast included as part of the response to the 2020 JCR request, Lewis & Ellis lowered anticipated costs in each year of the waiver period. Cumulatively, from the 2020 plan year through the 2023 plan year, the new forecast lowers the costs by $53.7 million. The lower projections in the current forecast reflect both the lower than anticipated 2019 plan year costs as well as the impact of COVID-19 on medical utilization.

Federal Pass-through Funds Forecast to Exceed Costs through the Waiver Period, but New Estimate for 2021 Plan Year Impacts Outlook

As developed, the reinsurance program was expected to be funded through two sources: (1) federal pass-through funds available due to estimated savings from the Advanced Premium Tax Credit (APTC) due to lower premiums (determined annually by the Centers for Medicare and Medicaid Services); and (2) a health insurance provider fee imposed by the State. Chapters 37 and 38 of 2018 created a 2.75% assessment on specified health insurance carriers for calendar 2019 only to fund the

program. Chapters 597 and 598 of 2019 extended the assessment through calendar 2023; however, for calendar 2020 through 2023, the assessment is 1% rather than 2.75%.

However, in the first two years of the program, the federal pass-through funds received by the State have substantially exceeded estimates. For example, for the 2019 plan year, Wakely estimated that the State would receive $303.6 million while the State actually received $373.4 million. For calendar 2020, Lewis & Ellis estimated that the State would receive $324.8 million while the State actually received $447.3 million. The higher than expected amounts account for factors such as enrollment (including the projected impact of MEEHP for calendar 2020). As a result of the higher than expected receipts to date, Lewis & Ellis' forecast for the 2021 plan year revised future estimates of funding upward. However, the revised estimates made an assumption about how the entrance of a new insurer into the market will be accounted for that was not reflected in the final federal estimates for the 2021 plan year released in February 2021.

As shown in **Exhibit 6**, due to the combination of the higher than expected federal pass-through funds and lower than expected reinsurance payments, for the 2019 plan year, the federal pass-through funds exceeded the reinsurance payments by more than $20 million. Similarly, under the current forecast, the federal pass-through is expected to be more than sufficient to cover the reinsurance program costs through the waiver period. In fact, based on Lewis & Ellis estimates for the 2021 plan year, approximately $628 million of federal pass-through funds would be unused at the end of the waiver period. If that level were to be achieved, it is unclear if those funds would remain available to be used for continuing the program beyond the waiver period if the waiver is not extended. The forecast assumes that these funds would not remain available and that out-year costs would be paid by the State, to the extent that the program is continued without a waiver. However, DLS notes that the fiscal 2022 budget of MHBE includes a total of $260,000 for actuarial services that, among other analyses, will be used for an analysis needed for an application to renew the waiver. **MHBE should comment on a timeline for determining whether to submit an application for an extension of the waiver and when such an application would be submitted.**

Exhibit 6
Funding Requirements Compared to Available Funds
Calendar 2019-2025
($ in Millions)

	2019 Actual	2020 Actual/Est	2021 Est.	2022 Est.	2023 Est.	2024 Est.	2025 Est.	Total through 2025
Estimated Reinsurance	$352.8	$377.8	$416.8	$448.0	$478.4	$510.2	$543.1	**$3,127.1**
Estimated Federal Pass-through	373.4	447.3	567.7	628.6	684.8			**2,701.9**
Pass-through In Excess of Costs	**$20.6**	**$69.4**	**$151.0**	**$180.6**	**$206.4**			**$628.1**
Provider Assessment (MIA Estimate)	$327.5	$118.5	$112.6	$118.9	$125.6			**$803.0**

MIA: Maryland Insurance Administration

Note: Does not account for pass-through funds that may be required for operating the program such as for actuarial support and the federal data system. For the 2019 program year, these costs were approximately $347,219. Actual data is listed where available. Pass-through estimates do not fully account for treatment of new carrier entrance. Estimates take into account utilization changes resulting from the COVID-19 pandemic.

Source: Maryland Health Benefit Exchange; Maryland Insurance Administration; Lewis & Ellis Actuaries and Consultants; Department of Legislative Services

In February 2021, the Center for Medicare and Medicaid Services (CMS) released an estimate of the amount of federal pass-through funds that will be available for the 2021 plan year. The estimate of $335.4 million is $232.3 million lower than the Lewis & Ellis forecast for that year. This level of receipt would be significantly below the two prior years and almost certainly indicates the out-year forecast by Lewis & Ellis is too high. The reason for the lower estimate compared to recent receipts is unclear but likely reflects a different view of the impact of the entrance of the additional insurer into the market as well as different assumptions related to enrollment/payments. The final decision of the pass through amounts will be made in April 2021. However, based on the estimate, prior year pass-through in excess of costs would be required to cover 2021 plan year reinsurance payments. The estimates for 2020 and 2021 plan year payments indicate that the prior year excess would be sufficient to cover the 2021 payments but there would be little carryover for the future. In addition, there is much less cushion even in the short run for fully covering the cost of the program with these funds. As a result, it seems possible or even likely that the provider assessment funds may be required in future years.

Use of Provider Assessment

As statutorily required, the provider assessment continues to be collected, even though it is not forecast to be required through the 2021 plan year (and under the Lewis & Ellis analysis through the forecast period). MHBE notes that the terms and conditions of the waiver require MHBE to ensure that sufficient funds are available to operate the program as described in the waiver application. However, MHBE explains that no specific match or amount of State funding is required for that purpose. MHBE also notes that the availability of State funding also provides carriers with confidence in the program, which is ultimately reflected in premiums. Beyond serving this purpose, any excess collections would be available for other potential purposes.

Individual Subsidy

Chapters 104 and 105 of 2020 required MHBE to submit a report on December 1, 2020, on State-based individual market subsidies. In response, MHBE contracted with Lewis & Ellis to conduct an actuarial analysis of potential State-based individual subsidy designs and convened a workgroup to examine the issue. The workgroup and actuarial analysis focused on two potential subsidy populations: (1) young adults; and (2) households earning between 400% and 600% of the federal poverty level (FPL). MHBE explains that these options target different groups because young adults are typically less impacted by the subsidy cliff (the increase in premium costs for households that have income just over 400% of FPL).

The options modeled follow the federal design but establish or reduce the maximum percent of income that the individual would pay toward the benchmark plan with the State covering the difference between the new percent of income and the federal level. For the young adult options, the differences generally relate to how much the maximum percent of income is reduced, the age at which the phase-out of the subsidy would begin, and how quickly the subsidy phases out. The 400% to 600% of FPL designs vary based on the maximum percent of income to be paid. **Exhibit 7** presents a comparison of the range of estimated impacts and costs of the different options modeled. The impacts shown are for the 2024 plan year, which is expected to be the full impact of the program after several years of ramp up while individuals learn about the subsidy. Although Lewis & Ellis estimates federal pass-through amounts, to date, states that operate a state subsidy have not received a State Innovation Waiver for these subsidies, and none of the currently operational programs are in states with a reinsurance program as well.

Exhibit 7
Comparison of Estimated 2024 Impacts of State Subsidy Model Options

	Young Adults	400% to 600% of FPL
Increase in Enrollment	500 to 20,900	2,300 to 8,900
Annual Subsidy Per Enrollee	$243 to $1,326	$400 to $1,457
Premium Reduction	0.1% to 3.5%	0.1% to 0.5%
Annual Cost ($ in Millions)	**$6 to $64**	**$17 to $69**
Federal Pass-through ($ in Millions)	**$0.4 to $12**	**$3 to $10**

FPL: federal poverty level

Source: Lewis & Ellis Actuaries and Consultants; Maryland Health Benefit Exchange

The Individual Subsidy Workgroup recommended prioritizing a subsidy for young adults with an expansion to the 400% to 600% of FPL group at a later time. The report concluded that the use of the provider assessment would not adversely impact the reinsurance program because the federal pass-through funds are expected to cover the costs of the program. MHBE explained in the report that if the legislature wishes to proceed with a State subsidy, some consideration should be given to (1) beginning with a pilot program of two or three years; (2) applying for a State Innovation Waiver, or amending the existing waiver, to enable the use of federal pass-through funding for the new subsidy; and (3) the future of the provider assessment (whether it should be extended).HB 780 of 2021, as introduced, proposes the establishment of a State-based Young Adult Health Insurance Subsidies Pilot program for calendar 2022 and 2023 using $10 million of the provider assessment in each year; MHBE's fiscal 2022 budget includes funding which is, in part, expected to support the implementation of a State subsidy such as IT enhancements to allow for calculation of such a subsidy and actuarial analyses.

BRFA of 2021

The BRFA of 2021 proposes to use $100 million of the provider assessment to support Medicaid in each fiscal 2021 through 2026, a total of $600 million. The fiscal 2022 budget includes $200 million of general fund reductions ($100 million in fiscal 2022 and $100 million in a fiscal 2021 deficiency appropriation) and a $100 million special fund appropriation for fiscal 2021, contingent on the enactment of this provision in the BRFA. As shown in Exhibit 6, calendar 2019 and 2020 collections totaled $446 million. With three years remaining of authorized collections, it is certain that $600 million in collections will be achieved, allowing this provision to be implemented in full if these funds are not needed to cover reinsurance payments. As a technical matter, the language in the BRFA implies that the transfer comes from new revenue, since it states that the transfer occurs before distribution to the MHBE Fund. Under current law, no new assessments occur after calendar 2023, and the funds to be collected between calendar 2021 and 2023 would not be sufficient to cover the total proposed transfer. **Therefore, DLS recommends a technical correction to clarify that the transfer can occur from fund balance rather than only new provider assessment revenue.**

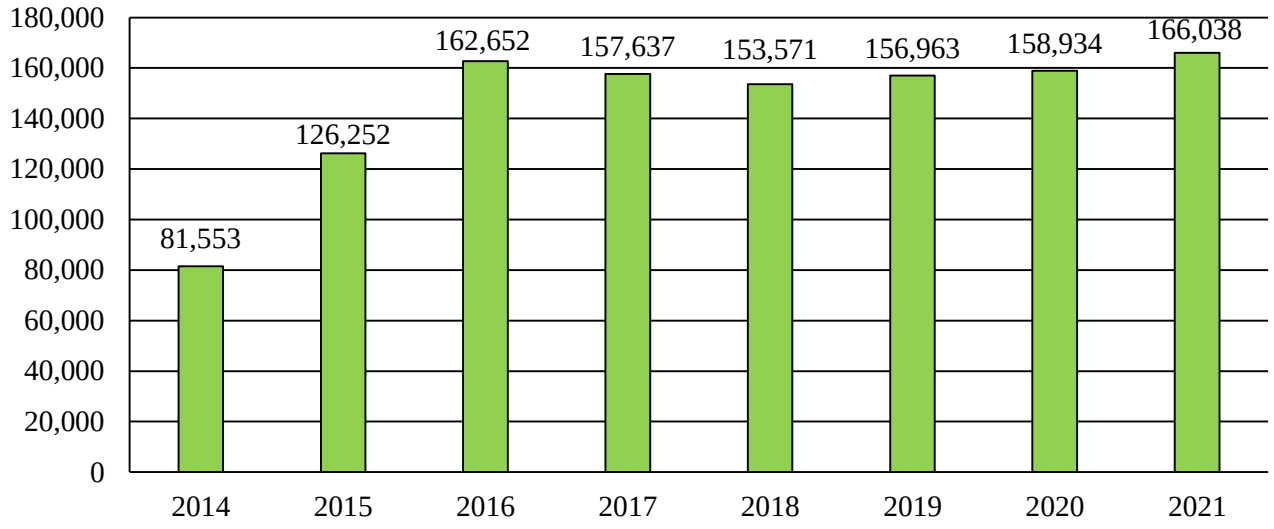
However, using this amount for Medicaid over a six-year period creates some risk in the reinsurance program especially given the 2021 plan year estimated pass-through amounts provided by CMS in February 2021. While it seems likely that the amount included in the fiscal 2022 budget will not be needed the CMS estimate could indicate that some significant amount of assessment revenue will be required for the program compared to the Lewis & Ellis forecast. In addition, in the current forecast, those funds would be available to extend the program beyond the waiver period, which would not be possible absent these funds. However, as noted above, it is expected that MHBE will apply for an extension of the waiver. While unrelated to the impact on the reinsurance program, if the General Assembly wishes to pursue a State subsidy, consideration would be required of how the uses would interact in terms of funding availability to support each.

3. Enrollment through Marketplace Reaches Highest Levels in History

Enrollment Levels

In December 2020, MHBE announced that 166,038 Marylanders enrolled in health insurance coverage through the exchange during the open enrollment period, an increase of 4.5% compared to the 2020 open enrollment period. As shown in **Exhibit 8**, this level of on exchange enrollment was the highest in the history of Maryland's marketplace, exceeding the prior peak in the calendar 2016 enrollment by 2.1%. The number of individuals enrolled in QHPs through the exchange increased in all jurisdictions. The highest percentage increases occurred in Queen Anne's (14.9%) and Frederick (10.6%) counties. The largest numerical increases occurred in Montgomery and Baltimore counties, each of which had increases exceeding 1,000 enrollments. The enrollment in off exchange plans also increased compared to the 2020 open enrollment period (21.6%). Total enrollment in ACA plans in the 2021 enrollment was 238,802 compared to 215,484 in 2020.

Exhibit 8
Enrollment in Open Enrollment in a Qualified Health Plan through MHC
Calendar 2014-2021



MHC: Maryland Health Connection

Source: Maryland Health Benefit Exchange

Impact of Special Enrollment Periods

Typically, enrollment declines during the course of a year following open enrollment. The 2020 plan year was unique in that respect as enrollment late in the year was at approximately the same level as early in the year. This led to some noteworthy changes during open enrollment. For example, in the 2021 open enrollment period, 84% of enrollments were renewals, compared with 76% in 2020, and there were a substantially lower number of new enrollees (a decrease of 31.6%) compared to 2020.

The primary factors contributing to this change were two new Special Enrollment Period (SEP) options during 2020: (1) a COVID-19 SEP; and (2) MEEHP. The combination of these two SEPs have allowed individuals nearly continuous access to enrollment in a QHP during calendar 2020 and 2021 to date. Enrollment in a QHP during these SEPs totals:

- 33,474 for the 2020 Coronavirus SEP (March 16, 2020, through December 15, 2020);
- 9,916 (as of February 15, 2021) for the 2021 Coronavirus SEP (December 16, 2021, through May 15, 2021); and
- 967 during the 2020 MEEHP.

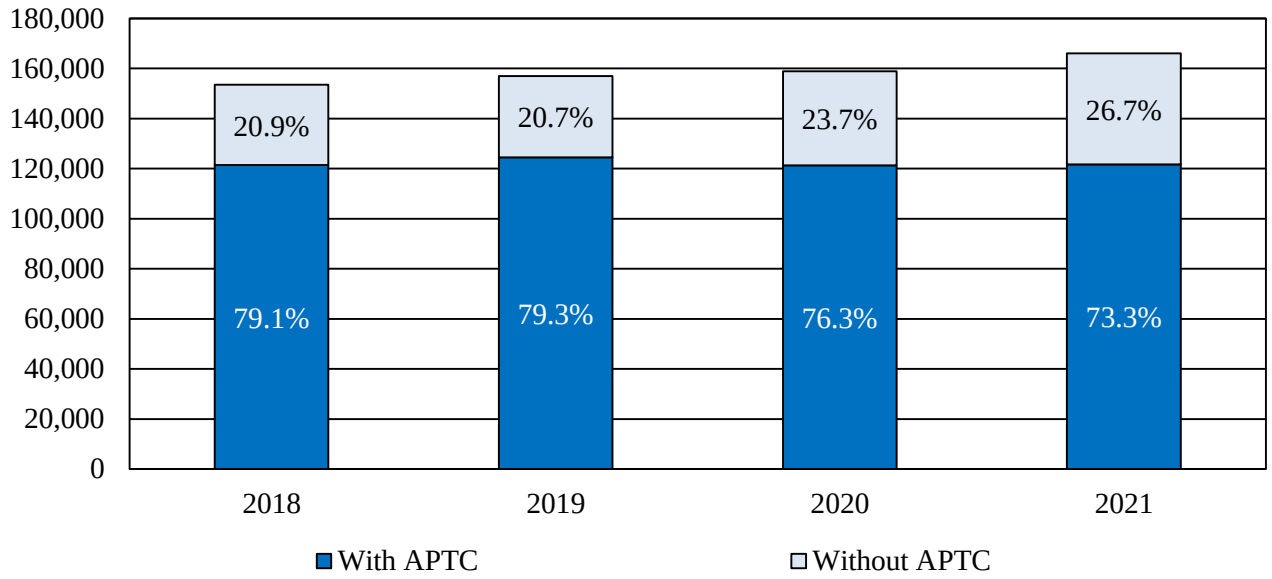
Under MEEHP as it operated in calendar 2020, individuals could check a box on their tax return indicating that they did not have coverage and were interested in obtaining coverage. Following a data exchange between the Comptroller's office and MHBE, eligible individuals were sent a notice that a SEP was open for them to enroll in coverage. MHBE indicated that 53,146 eligible individuals checked the box, though only 9,131 (17%) applied for coverage after the notice and 4,015 (7.6%) actually enrolled in coverage in either Medicaid or a QHP. The enrollment through MEEHP may have been impacted by the COVID-19 SEP since individuals that checked the box might have ultimately signed up through that SEP, since portions overlapped. During both SEPs, the vast majority of those that enrolled were eligible for Medicaid (approximately 66% in the COVID-19 SEPs and 76% in MEEHP).

The calendar 2021 version of MEEHP will continue to operate in the manner as calendar 2020 as MHBE, the Comptroller's office, and the Maryland Department of Health continue to work through technical issues related to implementation of a more automated second phase. The second phase is no longer expected to allow for automatic enrollment but instead prepopulation of the application for assistance. **MHBE should comment on the status of implementation efforts of the second phase and efforts to engage those who indicate interest in coverage, particularly given the overlapping COVID-19 SEP.**

Enrollment by APTC Status

As shown in **Exhibit 9,** while the number of individuals enrolled in a QHP during open enrollment that were eligible for APTC increased slightly in 2021 compared to the 2020 open enrollment, the share of all enrollments eligible for an APTC declined by 3 percentage points as most of the growth in QHP enrollment occurred in those not eligible for APTC. This trend can be viewed as evidence of success of the reinsurance program in driving down rates sufficiently to make it more affordable/attractive to a broader range of individuals. However, it may also be influenced by the current pandemic encouraging individuals to seek insurance, for example, due to loss of employer-based coverage. Consistent with that, approximately 70.5% of those enrolling in a QHP during the two Coronavirus SEPs were/are eligible for APTC, which is lower than recent open enrollment periods. In contrast, 87% of the QHP enrollments under the calendar 2020 MEEHP were eligible for APTC.

Exhibit 9
Individuals Enrolled in a QHP during Open Enrollment That Were Eligible for APTCs
Calendar 2018-2021



APTC: Advanced Premium Tax Credit
QHP: Qualified Health Plan

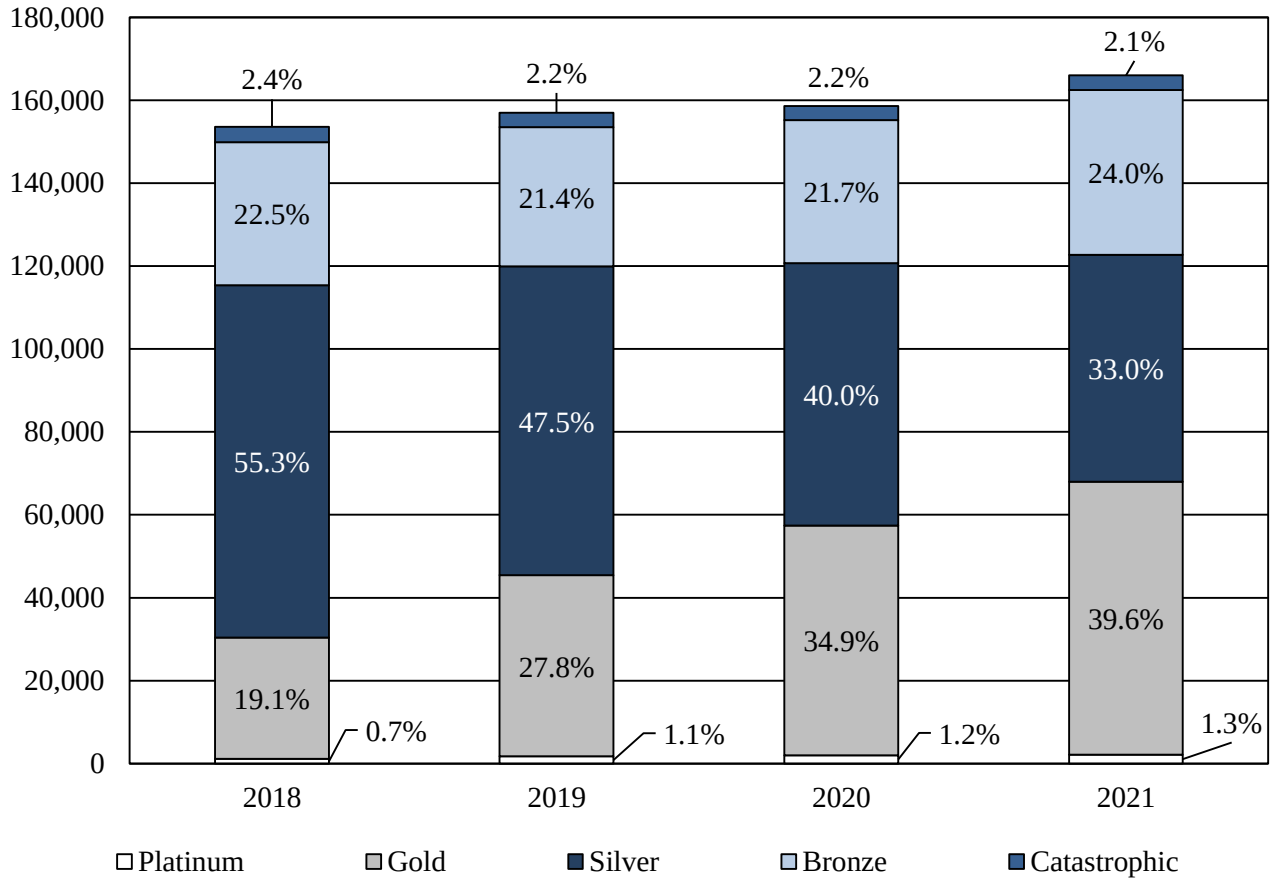
Source: Maryland Health Benefit Exchange

Enrollment by Plan Level

Individuals enrolling through MHC are able to choose from a variety of coverage levels. In general, bronze plans are cheaper in terms of premiums but require individuals to pay a higher share of medical costs (co-pays) and provide less generous coverage. Co-pays decrease, and coverage increases for each higher level of plan (silver, gold, and platinum), although premiums increase. As shown in **Exhibit 10**, the largest share of enrollments in the 2021 open enrollment period were in gold plans, an increase of 4.7 percentage points (10,394) compared to the 2020 period. The share of enrollments in gold plans has increased in each recent open enrollment period before surpassing silver plans in 2021. Enrollment in silver plans declined in raw numbers (8,620) and as a share of all enrollments (7 percentage points). The migration toward gold plans reflects improved affordability at all plan levels due to the lower premiums overall resulting from the reinsurance program and the introduction of value plans. The value plan requirements provide for a certain level of visits and services predeductible and set limits on deductible levels making higher levels of coverage more affordable. In addition, changes in the composition of enrollees to those not receiving financial assistance may shift enrollments away

from the silver plan to either lower premiums for affordability (bronze) or lower out-of-pocket costs (gold).

Exhibit 10
Individual Enrollment in QHPs by Metal Level in Open Enrollment
Calendar 2018-2021
($ in Thousands/Millions)



QHP: Qualified Health Plan

Source: Maryland Health Benefit Exchange

Operating Budget Recommended Actions

1. Adopt the following narrative:

   State Innovation Waiver Applications: The Maryland Health Benefit Exchange (MHBE) has indicated that it is considering submitting additional State Innovation Waiver applications, including to administer the Small Business Health Insurance Tax Credit, offer Individual Subsidies, and an extension of the State Reinsurance Program. Given the implications of these waivers on the activities of the agency and the budget for the agency, the committees are interested in remaining informed of MHBE's activities in these areas. The committees request that MHBE notify the committees of any applications for State Innovation Waivers that it submits during fiscal 2022 and the final decision on those applications.

Information Request	Author	Due Date
Notification of applications for State Innovation Waivers and decisions on those applications	MHBE	As needed, within 20 days of any application and decision on any application

2. Adopt the following narrative:

   Reinsurance Program Costs and Forecast: The committees are interested in monitoring the costs of the State Reinsurance Program and future funding needs. The committees are also interested in understanding the impact of the COVID-19 pandemic on the reinsurance program. The committees request that the Maryland Health Benefit Exchange (MBHE) submit a report that provides the final plan year 2020 reinsurance payments, an updated forecast of spending and funding needs by fund source over the waiver period, and a discussion of the impact of the COVID-19 pandemic on 2020 plan year costs and implications for 2021 plan year costs.

Information Request	Author	Due Date
Reinsurance program costs and forecast	MHBE	September 30, 2021

Budget Reconciliation and Financing Act Recommended Actions

1. Alter the required transfer of $100 million to Medicaid from the provider assessment with a technical correction to allow the transfer to occur from fund balance rather than only new collections and clarify that the transfer would be by the Insurance Commissioner for new revenue.

Updates

- ***California v. Texas:*** In *Texas v. United States*, 20 states filed suit in the U.S. District Court, Northern District of Texas arguing that the ACA, as amended by the Tax Cuts and Jobs Act of 2017 (which eliminated the tax penalty of the individual mandate), is no longer constitutional because it is not supported by a tax penalty. In December 2018, Judge Reed Charles O'Connor ruled in favor of the plaintiffs and also found that the individual mandate is unseverable from the ACA and thus declared the entire law to be invalid. The Fifth Circuit Court of Appeals (which heard the appeal by the defendants) affirmed the ruling that the individual mandate, as amended, is unconstitutional, but remanded the question of severability and whether the relief should be limited to the plaintiff states rather than nationwide. The case now known as *California v. Texas* was petitioned to the Supreme Court for review. Oral arguments were held November 10, 2020. To date, the Supreme Court has not issued a decision in the case.

- ***U.S. House of Representatives Considering Temporary Changes to APTC:*** As part of COVID-19 relief actions, the U.S. House of Representatives is considering legislation that would expand and increase APTC for 2021 and 2022. The proposal would reduce or eliminate premium payments for individuals/households already eligible for APTC while making additional individuals/households eligible by eliminating the income cap of 400% of FPL. The income cap would be replaced by a cap on premiums as a percent of income. The increased APTC (or reduced premium payments for lower income households) would result from the lower than maximum percent of income those households would be required to pay for premiums.

Appendix 1
2020 *Joint Chairmen's Report* Responses from Agency

The 2020 *Joint Chairmen's Report* (JCR) requested that the Maryland Health Benefit Exchange (MHBE) prepare three reports. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Future Funding Needs of MHBE:*** Further discussion of this data can be found in Key Observation 1 of this analysis.

- ***Enrollment Resulting from Maryland Easy Enrollment Health Insurance Program:*** Further discussion of this data can be found in Key Observation 3 of this analysis.

- ***Reinsurance Program Costs and Planned Use of the Provider Assessment:*** Further discussion of this data can be found in Key Observation 2 of this analysis.

Appendix 2
Object/Fund Difference Report
Maryland Health Benefit Exchange

Object/Fund	FY 20 Actual	FY 21 Working Appropriation	FY 22 Allowance	FY 21 - FY 22 Amount Change	Percent Change
Positions					
01 Regular	67.00	67.00	67.00	0.00	0%
02 Contractual	0.00	2.44	0.00	-2.44	- 100.0%
Total Positions	**67.00**	**69.44**	**67.00**	**-2.44**	**- 3.5%**
Objects					
01 Salaries and Wages	$ 8,065,002	$ 8,228,380	$ 8,213,111	- $ 15,269	- 0.2%
02 Technical and Spec. Fees	0	62,464	11,786	- 50,678	- 81.1%
03 Communication	105,011	114,681	105,624	- 9,057	- 7.9%
04 Travel	45,485	24,332	45,485	21,153	86.9%
08 Contractual Services	57,156,785	521,262,118	441,622,664	- 79,639,454	- 15.3%
09 Supplies and Materials	16,994	12,932	8,000	- 4,932	- 38.1%
10 Equipment – Replacement	125,765	0	0	0	0.0%
11 Equipment – Additional	5,400	475,000	475,000	0	0%
12 Grants, Subsidies, and Contributions	9,664,893	10,000,000	10,000,000	0	0%
13 Fixed Charges	927,035	911,192	973,904	62,712	6.9%
Total Objects	**$ 76,112,370**	**$ 541,091,099**	**$ 461,455,574**	**- $ 79,635,525**	**- 14.7%**
Funds					
03 Special Fund	$ 31,462,738	$ 119,919,701	$ 35,000,000	- $ 84,919,701	- 70.8%
05 Federal Fund	44,649,632	421,171,398	426,455,574	5,284,176	1.3%
Total Funds	**$ 76,112,370**	**$ 541,091,099**	**$ 461,455,574**	**- $ 79,635,525**	**- 14.7%**

Note: The fiscal 2021 appropriation does not include deficiencies or general salary increases. The fiscal 2022 allowance does not include contingent reductions, annual salary review adjustments, or annualized general salary increases.