

SENATE BILL 906

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CF HB 1492

By: **The President (By Request – Administration) and Senators Astle, Frosh, Garagiola, Klausmeier, Madaleno, Middleton, Muse, Pinsky, Pugh, ~~and Raskin~~ Raskin, Exum, Glassman, and Kelley**

Introduced and read first time: February 19, 2008

Assigned to: Rules

Re-referred to: Finance, February 22, 2008

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2008

CHAPTER _____

1 AN ACT concerning

2 **Senior Prescription Drug Assistance Program – Subsidy for Medicare Part D**
3 **Coverage Gap and Sunset Extension**

4 FOR the purpose of requiring a certain corporation, beginning on a certain date and
5 under certain circumstances, to transfer a certain amount of money to the
6 separate account for the Senior Prescription Drug Assistance Program within
7 the Maryland Health Insurance Plan; authorizing the corporation not to make
8 the transfer, under certain circumstances; providing for a certain exception;
9 requiring the Program to provide a certain subsidy for the Medicare Part D
10 coverage gap, subject to the availability of certain funds; requiring the Board of
11 Directors of the Maryland Health Insurance Plan to determine annually the
12 amount of the subsidy; requiring the segregated account for the Senior
13 Prescription Drug Assistance Program to include certain money deposited by a
14 nonprofit health service plan; repealing a certain source of funds for the
15 Maryland Health Insurance Plan Fund; altering requirements for a certain
16 segregated account; altering requirements for the amount a nonprofit health
17 service plan is required to deposit to the Fund; requiring a nonprofit health
18 service plan to deposit to the Maryland Health Insurance Plan Fund the
19 amount required for the Medicare Part D coverage gap subsidy; extending the
20 termination date of the Senior Prescription Drug Assistance Program; defining
21 a certain term; making technical corrections; and generally relating to a subsidy
22 for the Medicare Part D coverage gap for enrollees of the Senior Prescription
23 Drug Assistance Program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
 2 Article – Insurance
 3 Section 14–102(h), 14–501(i) and (j), 14–504(b), 14–512(c) and (e), and 14–513
 4 Annotated Code of Maryland
 5 (2006 Replacement Volume and 2007 Supplement)

6 BY adding to
 7 Article – Insurance
 8 Section 14–106.2 and 14–501(i)
 9 Annotated Code of Maryland
 10 (2006 Replacement Volume and 2007 Supplement)

11 BY repealing and reenacting, without amendments,
 12 Article – Insurance
 13 Section 14–501(a), 14–504 (a)(1) and (e), and 14–512(a) and (b)
 14 Annotated Code of Maryland
 15 (2006 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, with amendments,
 17 Chapter 153 of the Acts of the General Assembly of 2002, as amended by
 18 Chapter 282 of the Acts of the General Assembly of 2005, Chapter 345 of
 19 the Acts of the General Assembly of 2006, and Chapter 509 of the Acts of
 20 the General Assembly of 2007
 21 Section 13

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

24 **Article – Insurance**

25 14–102.

26 (h) The provisions of subsections (d) and (e) of this section and §§ 14–106,
 27 14–106.1, **14–106.2**, 14–115(d), (e), (f), and (g), and 14–139(d) and (e) of this subtitle
 28 do not apply to a nonprofit health service plan that insures between 1 and 10,000
 29 covered lives in Maryland or issues contracts for only one of the following services:

- 30 (1) podiatric;
- 31 (2) chiropractic;
- 32 (3) pharmaceutical;
- 33 (4) dental;
- 34 (5) psychological; or

1 (6) optometric.

2 **14-106.2.**

3 (A) THIS SECTION APPLIES TO A CORPORATION THAT IS:

4 (1) ISSUED A CERTIFICATE OF AUTHORITY AS A NONPROFIT
5 HEALTH SERVICE PLAN; AND

6 (2) THE SOLE MEMBER OF A CORPORATION ISSUED A
7 CERTIFICATE OF AUTHORITY AS A NONPROFIT HEALTH SERVICE PLAN.

8 (B) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION,
9 BEGINNING JANUARY 1, 2009, AND EACH JANUARY 1 THEREAFTER, IF A
10 CORPORATION SUBJECT TO THIS SECTION HAS A SURPLUS THAT EXCEEDS 800%
11 OF THE CONSOLIDATED RISK-BASED CAPITAL REQUIREMENTS APPLICABLE TO
12 THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, THE
13 CORPORATION SHALL TRANSFER \$4,000,000 TO THE SEPARATE ACCOUNT FOR
14 THE SENIOR PRESCRIPTION DRUG ASSISTANCE PROGRAM WITHIN THE
15 MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER § 14-504
16 OF THIS TITLE.

17 (C) A CORPORATION IS NOT REQUIRED TO MAKE THE TRANSFER UNDER
18 SUBSECTION (B) OF THIS SECTION IF:

19 (1) THE SURPLUS OF THE CORPORATION DOES NOT EXCEED 800%
20 OF THE CONSOLIDATED RISK-BASED CAPITAL REQUIREMENTS APPLICABLE TO
21 THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR; OR

22 (2) THE FEDERAL GOVERNMENT ELIMINATES THE COVERAGE GAP
23 IN THE MEDICARE PART D PRESCRIPTION DRUG BENEFIT.

24 14-501.

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

26 (i) “MEDICARE PART D COVERAGE GAP” MEANS THE GAP IN
27 COVERAGE UNDER MEDICARE PART D:

28 (1) ABOVE THE INITIAL COVERAGE LIMIT AND BEFORE
29 CATASTROPHIC COVERAGE BEGINS; AND

30 (2) DURING WHICH AN INDIVIDUAL ENROLLED IN MEDICARE
31 PART D IS RESPONSIBLE FOR 100% COINSURANCE COSTS.

1 [(i)] (J) “Plan” means the Maryland Health Insurance Plan.

2 [(j)] (K) “Plan of operation” means the articles, bylaws, and operating rules
3 and procedures adopted by the Board in accordance with § 14–503 of this subtitle.

4 14–504.

5 (a) (1) There is a Maryland Health Insurance Plan Fund.

6 (b) The Fund shall consist of:

7 (1) premiums for coverage that the Plan issues;

8 [(2) except as provided in § 14–513(a) of this subtitle, premiums paid
9 by enrollees of the Senior Prescription Drug Assistance Program;

10 [(3)] (2) money collected in accordance with § 19–219 of the Health –
11 General Article;

12 [(4)] (3) money deposited by a [carrier] **NONPROFIT HEALTH**
13 **SERVICE PLAN** in accordance with § 14–513 of this subtitle;

14 [(5)] (4) income from investments that the Board makes or
15 authorizes on behalf of the Fund;

16 [(6)] (5) interest on deposits or investments of money from the Fund;

17 [(7)] (6) premium tax revenue collected under § 14–107 of this title;

18 [(8)] (7) money collected by the Board as a result of legal or other
19 actions taken by the Board on behalf of the Fund;

20 [(9)] (8) money donated to the Fund; and

21 [(10)] (9) money awarded to the Fund through grants.

22 (e) (1) In addition to the operation and administration of the Plan, the
23 Fund shall be used for the operation and administration of the Senior Prescription
24 Drug Assistance Program established under Part II of this subtitle.

25 (2) The Board shall maintain separate accounts within the Fund for
26 the Senior Prescription Drug Assistance Program and the Maryland Health Insurance
27 Plan.

28 (3) Accounts within the Fund shall contain those moneys that are
29 intended to support the operation of the Program for which the account is designated.

1 14-512.

2 (a) The Program shall:

3 (1) provide a prescription drug benefit subsidy, as determined by the
4 Board, that may pay all or some of the deductibles, coinsurance payments, premiums,
5 and copayments under the federal Medicare Part D Pharmaceutical Assistance
6 Program for enrollees of the Program; and

7 (2) provide the subsidy to the maximum number of individuals eligible
8 for enrollment in the Program, subject to the moneys available in the segregated
9 account under § 14-504 of this subtitle.

10 (b) The Program may limit payment of any subsidy by paying the subsidy
11 only on behalf of eligible individuals enrolled in a Medicare Part D Prescription Drug
12 Plan or Medicare Advantage Plan that coordinates with the Program in accordance
13 with federal requirements.

14 (c) The Program:

15 (1) may annually provide an additional subsidy, up to the full amount
16 of the Medicare Part D Prescription Drug Plan premium, for individuals who qualify
17 for a partial federal low-income subsidy; AND

18 (2) SHALL ANNUALLY PROVIDE AN ADDITIONAL SUBSIDY UP TO
19 THE FULL AMOUNT OF THE MEDICARE PART D COVERAGE GAP, SUBJECT TO
20 THE AVAILABILITY OF:

21 (I) FUNDS PROVIDED UNDER § 14-106.2 OF THIS TITLE;
22 AND

23 (II) ANY OTHER FUNDS AVAILABLE FOR THIS PURPOSE.

24 (e) The Board shall determine annually:

25 (1) the number of individuals to be enrolled in the Program;

26 (2) the amount of subsidy to be provided under [subsection (a)]
27 SUBSECTIONS (A) AND (C)(2) of this section; and

28 (3) the amount of any additional subsidy provided under subsection
29 [(c)] (C)(1) of this section.

30 14-513.

1 (a) [As determined by the Board, premiums collected] **FUNDS** for the
2 Program shall be deposited:

3 (1) to a segregated account in the Fund established under § 14-504 of
4 this subtitle; or

5 (2) to a separate account for the Program established by the Program
6 Administrator.

7 (b) [In addition to premium income, the] **THE** segregated account shall
8 include:

9 (1) interest and investment income attributable to Program funds; and

10 (2) money deposited to the account by a nonprofit health service plan,
11 in accordance with [subsection (c)] **SUBSECTIONS (C) AND (D)** of this section.

12 (c) (1) On or before April 1, 2003 and quarterly thereafter, the nonprofit
13 health service plan required to subsidize the Program under § 14-106(d) of this title
14 shall deposit to the Fund under § 14-504 of this subtitle the amount[, in excess of
15 premiums collected,] that is necessary to operate and administer the Program for the
16 following quarter.

17 (2) The amount deposited shall be determined by the Board based on
18 enrollment, expenditures, and revenue for the previous year.

19 (3) The amount required by the Board under paragraph (2) of this
20 subsection may not exceed the amounts specified in § 14-106(e) of this title.

21 (4) The Board shall provide funds to the Administrator, in accordance
22 with the terms of the contract with the Administrator, for the cost of the State subsidy
23 and administrative expenses incurred on behalf of the Program.

24 **(D) A NONPROFIT HEALTH SERVICE PLAN SHALL DEPOSIT IN THE FUND**
25 **UNDER § 14-504 OF THIS SUBTITLE THE AMOUNT REQUIRED UNDER § 14-106.2**
26 **OF THIS TITLE TO BE USED FOR THE PURPOSE OF SUBSIDIZING THE MEDICARE**
27 **PART D COVERAGE GAP.**

28 **Chapter 153 of the Acts of 2002, as amended by Chapter 282 of the Acts of**
29 **2005, Chapter 345 of the Acts of 2006, and Chapter 509 of the Acts of 2007**

30 **SECTION 13. AND BE IT FURTHER ENACTED, That:**

31 **(1) No later than June 1, 2003, the Secretary of Health and Mental**
32 **Hygiene and the carrier that is required to offer the Short-Term Prescription Drug**
33 **Subsidy Plan under Title 15, Subtitle 6 of the Health – General Article shall transfer**
34 **all Plan records, data, and other information necessary to operate and administer the**

1 Senior Prescription Drug Program established under this Act to the Board of the
2 Maryland Health Insurance Plan.

3 (2) Each individual enrolled in the Short-Term Prescription Drug
4 Subsidy Plan, established under Title 15, Subtitle 6 of the Health – General Article, on
5 June 30, 2003 shall, at the option of the enrollee and subject to the payment of all
6 necessary premiums and copayments, be automatically enrolled in the Senior
7 Prescription Drug Program established under this Act.

8 (3) It is the intent of the General Assembly that the transition of
9 enrollees from the Short-Term Prescription Drug Subsidy Plan to the Senior
10 Prescription Drug Program be accomplished without interruption of benefits for
11 enrollees.

12 (4) Subsidies shall be offered to enrollees through the Senior
13 Prescription Drug Assistance Program established under Title 14, Subtitle 5, Part II of
14 the Insurance Article beginning January 1, 2006. At the end of December 31, [2009]
15 2010, the Senior Prescription Drug Assistance Program established under Title 14,
16 Subtitle 5, Part II, as amended, shall be abrogated and of no further force and effect.

17 (5) Beginning April 1, 2003, the carrier required to offer the
18 Short-Term Prescription Drug Subsidy Plan under Title 15, Subtitle 6 of the
19 Health – General Article and the Senior Prescription Drug Assistance Program under
20 Title 14, Subtitle 5 of the Insurance Article shall subsidize the Plan and beginning
21 January 1, 2006, the Program, using the value of the carrier's premium tax exemption.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.