

# HOUSE BILL 536

J5, P1

EMERGENCY BILL

2lr1297

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By: **Delegate Pendergrass**

Introduced and read first time: January 21, 2022

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Insurance Commissioner – Authority – Federal Health Emergency**

3 FOR the purpose of requiring the Maryland Insurance Commissioner to adopt regulations  
4 that may be applied when a certain national or public health emergency, that within  
5 the Commissioner’s discretion affects the State, is issued by the President of the  
6 United States or the Secretary of Health and Human Services; requiring that, for a  
7 certain period of time after the termination of a national or public health emergency  
8 due to the COVID–19 pandemic, a carrier that issues Medicare supplement policies  
9 establish a special enrollment period for individuals enrolled in Medicare Part B and  
10 the Maryland Medical Assistance Program who remain in the Program due to a  
11 suspension of terminations by the Program during the state of emergency and are  
12 not disenrolled until a certain period of time following the effective date of enrollment  
13 in Medicare Part B; and generally relating to the authority of the Maryland  
14 Insurance Commissioner during a federal health emergency.

15 BY repealing and reenacting, with amendments,  
16 Article – Insurance  
17 Section 2–115  
18 Annotated Code of Maryland  
19 (2017 Replacement Volume and 2021 Supplement)

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

22 **Article – Insurance**

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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 2-115.

2 (a) The Commissioner shall adopt regulations that may be applied when:

3 (1) the Governor has declared a state of emergency for the State or an area  
4 within the State under § 14-107 of the Public Safety Article; [or]

5 (2) the President of the United States has issued a major disaster or  
6 emergency declaration for the State or an area within the State under the federal Stafford  
7 Act; OR

8 (3) A NATIONAL OR PUBLIC HEALTH EMERGENCY, THAT WITHIN THE  
9 COMMISSIONER'S DISCRETION AFFECTS THE STATE;

10 (I) IS ISSUED:

11 ~~(H)~~ 1. BY THE PRESIDENT OF THE UNITED STATES UNDER §  
12 201, § 202(D), OR § 301 OF THE FEDERAL NATIONAL EMERGENCIES ACT; OR

13 ~~(H)~~ 2. BY THE SECRETARY OF HEALTH AND HUMAN  
14 SERVICES UNDER THE FEDERAL PUBLIC HEALTH SERVICE ACT; AND

15 (II) IS BASED ON A SERIOUS THREAT TO HEALTH RESULTING  
16 FROM THE EXISTENCE OF A DEADLY AGENT AS DEFINED IN § 14-3A-01 OF THE  
17 PUBLIC SAFETY ARTICLE.

18 (b) The regulations may:

19 (1) apply to any person regulated by the Commissioner under this article  
20 or Title 19, Subtitle 7 of the Health – General Article; and

21 (2) address:

22 (i) submission of claims or proof of loss;

23 (ii) grace periods for payment of premiums and performance of other  
24 duties by insureds;

25 (iii) temporary postponement of cancellations, nonrenewals,  
26 premium increases, or policy modifications;

27 (iv) procedures for obtaining nonelective health care services;

28 (v) time restrictions for filling or refilling prescription drugs;

1 (vi) time frames applicable to an action by the Commissioner under  
2 this article; and

3 (vii) any other activity necessary to protect the residents of the State.

4 (c) (1) To activate a regulation adopted under this section, the Commissioner  
5 shall issue a bulletin specifying:

6 (i) that the regulation is activated;

7 (ii) the line or lines of business to which the regulation applies;

8 (iii) the geographic areas to which the regulation applies; and

9 (iv) the period of time for which the regulation applies.

10 (2) (I) **[A] EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF**  
11 **THIS PARAGRAPH,** A regulation activated under paragraph (1) of this subsection may not  
12 apply beyond the duration of, or the geographical area included within, the Governor's or  
13 President's declaration of a state of emergency or disaster.

14 (II) **A REGULATION ACTIVATED UNDER PARAGRAPH (1) OF THIS**  
15 **SUBSECTION IN RESPONSE TO A NATIONAL OR PUBLIC HEALTH EMERGENCY**  
16 **DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION MAY NOT APPLY BEYOND THE**  
17 **DURATION OF THE PRESIDENT'S OR SECRETARY OF HEALTH AND HUMAN**  
18 **SERVICES' DECLARATION OF A NATIONAL OR PUBLIC HEALTH EMERGENCY.**

19 (3) The Commissioner:

20 (i) shall provide a copy of the bulletin to the emergency contact  
21 designated by the person subject to the bulletin; and

22 (ii) may post a copy of the bulletin on the Administration's Web site.

23 SECTION 2. AND BE IT FURTHER ENACTED, That:

24 (a) This section:

25 (1) prevails over any inconsistent provisions of COMAR 31.10.06.09-1; and

26 (2) shall apply to any individual Medicare supplement policy and to any  
27 group Medicare supplement policy issued to a group of which an individual has privileges  
28 associated with group membership.

29 (b) The definitions in § 15-901 of the Insurance Article shall apply to this section.

1 (c) A carrier that issues Medicare supplement policies in the State shall issue any  
2 Medicare supplement policy the carrier sells in the State to an individual eligible for  
3 Medicare if the individual:

4 (1) is enrolled in Medicare Part B while enrolled in the Maryland Medical  
5 Assistance Program;

6 (2) remained in the Maryland Medical Assistance Program due to a  
7 suspension of terminations by the Maryland Medical Assistance Program during a state of  
8 emergency and was not disenrolled or terminated until at least 6 months following the  
9 effective date of enrollment in Medicare Part B;

10 (3) applies for the Medicare supplement policy during the 63-day period  
11 following the later of notice of termination or disenrollment or the date of termination from  
12 the Maryland Medical Assistance Program; and

13 (4) submits evidence of the date of termination or disenrollment from the  
14 Maryland Medical Assistance Program with the application for a Medicare supplement  
15 policy.

16 (d) With respect to an individual described in this section, a carrier may not:

17 (1) deny or place a condition on the issuance or effectiveness of a Medicare  
18 supplement policy that is offered and is available for issuance to new enrollees by the  
19 carrier;

20 (2) discriminate in the pricing of a Medicare supplement policy because of  
21 health status, claims experience, receipt of health care, or medical condition; or

22 (3) impose an exclusion of benefits based on a preexisting condition under  
23 a Medicare supplement policy.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
25 measure, is necessary for the immediate preservation of the public health or safety, has  
26 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
27 each of the two Houses of the General Assembly, and shall take effect from the date it is  
28 enacted. Section 2 of this Act shall remain effective until 1 year after the termination of the  
29 national emergency declared by the President of the United States under § 201, § 202(d),  
30 or § 301 of the federal National Emergencies Act or the termination of the public health  
31 emergency declared by the federal Department of Health and Human Services under the  
32 federal Public Health Service Act due to the COVID-19 pandemic, whichever is later, and,  
33 at that time, Section 2 of this Act, with no further action required by the General Assembly,  
34 shall be abrogated and of no further force and effect.