

SENATE BILL 728

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By: **Senator Lam**

Introduced and read first time: February 7, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Qualified Resident State Subsidy Program**
3 **(Access to Care Act)**

4 FOR the purpose of altering the purpose of the Maryland Health Benefit Exchange Fund
5 to include the provision of funding for the establishment and operation of the
6 Qualified Resident State Subsidy Program; requiring the Maryland Health Benefit
7 Exchange to establish and implement the Program to provide State premium
8 assistance and cost-sharing reductions to qualified residents; providing that the
9 implementation of the Program is contingent on approval of a certain waiver
10 application; and generally relating to the Qualified Resident State Subsidy Program.

11 BY repealing and reenacting, without amendments,
12 Article – Insurance
13 Section 31–101(a) and 31–108(a)
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2021 Supplement)

16 BY adding to
17 Article – Insurance
18 Section 31–101(u–1), 31–123, and 31–124
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Insurance
23 Section 31–107, 31–108(b)(1), and 31–115(b)(7)
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Insurance

1
2 31–101.

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

4 (U–1) “QUALIFIED RESIDENT” MEANS AN INDIVIDUAL, INCLUDING A MINOR,
5 REGARDLESS OF IMMIGRATION STATUS, WHO AT THE TIME OF ENROLLMENT:

6 (1) IS SEEKING TO ENROLL IN A QUALIFIED HEALTH PLAN OFFERED
7 TO INDIVIDUALS THROUGH THE EXCHANGE;

8 (2) RESIDES IN THE STATE;

9 (3) IS NOT INCARCERATED, OTHER THAN INCARCERATION PENDING
10 DISPOSITION OF CHARGES; AND

11 (4) IS NOT ELIGIBLE FOR THE FEDERAL PREMIUM TAX CREDIT, THE
12 MARYLAND MEDICAL ASSISTANCE PROGRAM, MEDICARE, THE MARYLAND
13 CHILDREN’S HEALTH PLAN, OR EMPLOYER–SPONSORED MINIMUM ESSENTIAL
14 COVERAGE.

15 31–107.

16 (a) There is a Maryland Health Benefit Exchange Fund.

17 (b) (1) The purpose of the Fund is to:

18 (i) provide funding for the operation and administration of the
19 Exchange in carrying out the purposes of the Exchange under this subtitle;

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

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

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

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

1 **(VI) PROVIDE FUNDING FOR THE ESTABLISHMENT AND**
2 **OPERATION OF THE QUALIFIED RESIDENT STATE SUBSIDY PROGRAM.**

3 (2) The operation and administration of the Exchange, the State
4 Reinsurance Program, [and] the State-Based Young Adult Health Insurance Subsidies
5 Pilot Program, **AND THE QUALIFIED RESIDENT STATE SUBSIDY PROGRAM** may
6 include functions delegated by the Exchange to a third party under law or by contract.

7 (c) The Exchange shall administer the Fund.

8 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of
9 the State Finance and Procurement Article.

10 (2) The State Treasurer shall hold the Fund separately, and the
11 Comptroller shall account for the Fund.

12 (e) The Fund consists of:

13 (1) any user fees or other assessments collected by the Exchange;

14 (2) all revenue deposited into the Fund that is received from the
15 distribution of the premium tax under § 6–103.2 of this article;

16 (3) income from investments made on behalf of the Fund;

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

18 (5) money collected by the Board as a result of legal or other actions taken
19 by the Board on behalf of the Exchange or the Fund;

20 (6) money donated to the Fund;

21 (7) money awarded to the Fund through grants;

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

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

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

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

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

3 (13) **ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE**
4 **STATE–BASED HEALTH INSURANCE SUBSIDIES TO QUALIFIED RESIDENTS IN THE**
5 **STATE; AND**

6 (14) any other money from any other source accepted for the benefit of the
7 Fund.

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

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

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

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

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

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

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

22 (v) **FOR THE ESTABLISHMENT AND OPERATION OF THE**
23 **QUALIFIED RESIDENT STATE SUBSIDY PROGRAM.**

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

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

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

30 (g) (1) The Board shall maintain separate accounts within the Fund for
31 Exchange operations, for the State Reinsurance Program, [and] for the State–Based Young
32 Adult Health Insurance Subsidies Pilot Program, **AND FOR THE ESTABLISHMENT AND**

1 **OPERATION OF THE QUALIFIED RESIDENT STATE SUBSIDY PROGRAM.**

2 (2) Accounts within the Fund shall contain the money that is intended to
3 support the purpose for which each account is designated.

4 (3) Funds received from the distribution of the premium tax under §
5 6–103.2 of this article shall be placed in the account for Exchange operations and may be
6 used only for the purpose of funding the operation and administration of the Exchange.

7 (4) The following funds may be used only for the purposes of funding the
8 State Reinsurance Program:

9 (i) any pass-through funds received from the federal government
10 under a waiver approved under § 1332 of the Affordable Care Act to provide reinsurance to
11 carriers that offer individual health benefit plans in the State;

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

14 (iii) any funds designated by the State to provide reinsurance to
15 carriers that offer individual health benefit plans in the State.

16 (h) (1) Expenditures from the Fund for the purposes authorized by this
17 subtitle may be made only:

18 (i) with an appropriation from the Fund approved by the General
19 Assembly in the State budget; or

20 (ii) by the budget amendment procedure provided for in Title 7,
21 Subtitle 2 of the State Finance and Procurement Article.

22 (2) Notwithstanding § 7–304 of the State Finance and Procurement Article,
23 if the amount of the distribution from the premium tax under § 6–103.2 of this article
24 exceeds in any State fiscal year the actual expenditures incurred for the operation and
25 administration of the Exchange, funds in the Exchange operations account from the
26 premium tax that remain unspent at the end of the State fiscal year shall revert to the
27 General Fund of the State.

28 (3) If operating expenses of the Exchange may be charged to either State
29 or non-State fund sources, the non-State funds shall be charged before State funds are
30 charged.

31 (i) (1) The State Treasurer shall invest the money of the Fund in the same
32 manner as other State money may be invested.

33 (2) Any investment earnings of the Fund shall be credited to the Fund.

1 (3) Except as provided in subsection (h)(2) of this section, no part of the
2 Fund may revert or be credited to the General Fund or any special fund of the State.

3 (j) A debt or an obligation of the Fund is not a debt of the State or a pledge of
4 credit of the State.

5 31-108.

6 (a) On or before January 1, 2014, the functions and operations of the Exchange
7 shall include at a minimum all functions required by § 1311(d)(4) of the Affordable Care
8 Act.

9 (b) In compliance with § 1311(d)(4) of the Affordable Care Act, the Exchange
10 shall:

11 (1) make qualified plans available to qualified individuals, **QUALIFIED**
12 **RESIDENTS**, and qualified employers;

13 31-115.

14 (b) To be certified as a qualified health plan, a health benefit plan shall:

15 (7) be in the interest of qualified individuals, **QUALIFIED RESIDENTS**, and
16 qualified employers, as determined by the Exchange;

17 **31-123.**

18 **(A) ON OR BEFORE JULY 1, 2023, THE EXCHANGE, IN CONSULTATION WITH**
19 **THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL SUBMIT A STATE**
20 **INNOVATION WAIVER APPLICATION UNDER § 1332 OF THE AFFORDABLE CARE ACT**
21 **TO ESTABLISH A QUALIFIED RESIDENT STATE SUBSIDY PROGRAM AND SEEK**
22 **FEDERAL PASS-THROUGH FUNDING TO ALLOW QUALIFIED RESIDENTS TO OBTAIN**
23 **COVERAGE THROUGH THE EXCHANGE.**

24 **(B) ON OR BEFORE DECEMBER 31, 2023, THE COMMISSIONER MAY WAIVE**
25 **ANY NOTIFICATION OR OTHER REQUIREMENTS THAT APPLY TO A CARRIER UNDER**
26 **THIS ARTICLE IN CALENDAR YEAR 2023 DUE TO THE IMPLEMENTATION OF A WAIVER**
27 **APPROVED UNDER § 1332 OF THE AFFORDABLE CARE ACT.**

28 **31-124.**

29 **(A) THE EXCHANGE, IN CONSULTATION WITH THE COMMISSIONER AND AS**
30 **APPROVED BY THE BOARD, SHALL ESTABLISH AND IMPLEMENT A QUALIFIED**
31 **RESIDENT STATE SUBSIDY PROGRAM:**

1 **(1) TO PROVIDE STATE PREMIUM ASSISTANCE AND COST-SHARING**
2 **REDUCTIONS TO QUALIFIED RESIDENTS;**

3 **(2) THAT MEETS THE REQUIREMENTS OF A WAIVER APPROVED**
4 **UNDER § 1332 OF THE AFFORDABLE CARE ACT; AND**

5 **(3) THAT IS CONSISTENT WITH FEDERAL AND STATE LAW.**

6 **(B) THE QUALIFIED RESIDENT STATE SUBSIDY PROGRAM SHALL BE**
7 **DESIGNED TO MAKE INDIVIDUAL MARKET HEALTH INSURANCE COVERAGE OFFERED**
8 **THROUGH THE EXCHANGE AFFORDABLE TO QUALIFIED RESIDENTS.**

9 **(C) (1) BASED ON AVAILABLE FUNDS, THE EXCHANGE, IN CONSULTATION**
10 **WITH THE COMMISSIONER AND AS APPROVED BY THE BOARD, SHALL ESTABLISH**
11 **SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS FOR CALENDAR YEAR 2024 AND**
12 **EACH SUBSEQUENT CALENDAR YEAR.**

13 **(2) THE SUBSIDY ELIGIBILITY AND PAYMENT PARAMETERS**
14 **ESTABLISHED BY THE EXCHANGE SHALL, TO THE GREATEST EXTENT POSSIBLE,**
15 **MIRROR THOSE APPLICABLE TO QUALIFIED INDIVIDUALS.**

16 **(D) BEGINNING JANUARY 1, 2024, FUNDING FOR THE QUALIFIED**
17 **RESIDENT STATE SUBSIDY PROGRAM MAY BE MADE BY USING:**

18 **(1) ANY PASS-THROUGH FUNDS RECEIVED FROM THE FEDERAL**
19 **GOVERNMENT UNDER A WAIVER APPROVED UNDER § 1332 OF THE AFFORDABLE**
20 **CARE ACT;**

21 **(2) ANY FUNDS DESIGNATED BY THE FEDERAL GOVERNMENT TO**
22 **PROVIDE HEALTH COVERAGE FOR QUALIFIED RESIDENTS; AND**

23 **(3) ANY FUNDS DESIGNATED BY THE STATE TO PROVIDE HEALTH**
24 **COVERAGE FOR QUALIFIED RESIDENTS.**

25 **(E) THE IMPLEMENTATION OF THE QUALIFIED RESIDENT STATE SUBSIDY**
26 **PROGRAM SHALL BE CONTINGENT ON APPROVAL FROM THE U.S. SECRETARY OF**
27 **HEALTH AND HUMAN SERVICES AND THE U.S. SECRETARY OF THE TREASURY OF A**
28 **STATE INNOVATION WAIVER APPLICATION UNDER § 1332 OF THE AFFORDABLE**
29 **CARE ACT.**

30 **(F) ON OR BEFORE JANUARY 1, 2024, THE EXCHANGE SHALL ADOPT**
31 **REGULATIONS TO CARRY OUT THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.