

Chapter 767

(Senate Bill 946)

AN ACT concerning

State Prescription Drug Benefits – Retiree Benefits – Revisions

FOR the purpose of authorizing certain retirees who participate in a certain prescription drug benefit plan with a spouse or dependent child to elect to have the spouse or dependent child covered under a certain State prescription drug benefit plan; authorizing certain surviving spouses and surviving dependent children to elect to enroll in a certain State prescription drug benefit plan; requiring the Department of Budget and Management, on or before a certain date, to establish the Maryland State Retiree Prescription Drug Coverage Program; authorizing the Department to establish certain out-of-pocket limits under the Maryland State Retiree Prescription Drug Coverage Program for certain retirees; authorizing the Maryland State Retiree Prescription Drug Coverage Program to include a certain health reimbursement account or other program; authorizing certain individuals to enroll in the Maryland State Retiree Prescription Drug Coverage Program during a certain open enrollment or special enrollment period; requiring the Department, on or before a certain date, to establish the Maryland State Retiree Catastrophic Prescription Drug Assistance Program; authorizing the Department to establish a certain maximum reimbursement amount under the Maryland State Retiree Catastrophic Prescription Drug Assistance Program for certain retirees; authorizing the Maryland State Retiree Catastrophic Prescription Drug Assistance Program to reimburse participants through a certain health reimbursement account or other program; authorizing certain individuals to enroll in the Maryland State Retiree Catastrophic Prescription Drug Assistance Program during a certain open enrollment or special enrollment period; requiring the Department, on or before a certain date, to establish the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program to reimburse participants for certain costs through a certain health reimbursement account or other program; authorizing the Department to establish maximum reimbursement amounts on a certain basis under the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program; ~~authorizing certain individuals to enroll~~ *providing that certain individuals shall be automatically enrolled* in the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program ~~during a certain open enrollment or special enrollment period;~~ altering the date by which the Secretary of Budget and Management is required to provide a certain notice to certain individuals; altering the information required to be included in a certain notice; ~~requiring the Department to provide certain counseling to Medicare-eligible retirees for a certain purpose; requiring the Department to take certain actions in providing certain counseling~~ *requiring the Department to ensure Medicare-eligible retirees have access to certain services; requiring the Department to develop a certain plan for communicating to Medicare-eligible retirees the availability of certain programs and services; requiring the Department to submit a report on the plan by a certain date; requiring the report*

to include certain information; providing for the manner in which certain counseling may be provided; authorizing the Department to make an emergency procurement for certain services under certain circumstances; requiring the Department to submit certain quarterly reports to the Governor and certain committees of the General Assembly; requiring the Department to adopt certain regulations; providing for the application of certain provisions of this Act; making conforming changes; providing that, notwithstanding any other provision of law, the elimination of certain State prescription drug benefits, the establishment of certain programs, and the provision of a certain notice shall begin on a certain date under certain circumstances; requiring the Secretary of Budget and Management to provide certain notice to certain retirees not later than a certain date; declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to retirees from State employment and State prescription drug benefits.

BY repealing and reenacting, without amendments,
 Article – State Personnel and Pensions
 Section ~~2–508(d)~~ 2–508 and 2–509
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 2–509.1
 Annotated Code of Maryland
 (2015 Replacement Volume and 2018 Supplement)

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

Article – State Personnel and Pensions

2–508.

(a) (1) In this section the following words have the meanings indicated.

(2) “Creditable service” means:

(i) service credited toward a retirement allowance under Division II of this article;

(ii) service while a member of the Judges’ Retirement System under Title 27 of this article;

(iii) service while an employee was employed by the Domestic Relations Division of the Anne Arundel County Circuit Court, prior to transfer on or before

July 1, 2002 into the State Personnel Management System, in accordance with § 2-510 of the Courts Article; or

(iv) service while a member of the Maryland Transit Administration Retirement Plan under § 7-206 of the Transportation Article.

(3) (i) “Retiree” means:

1. a former State employee who receives a retirement allowance under Division II of this article;

2. a former employee of the Medical System Corporation, as defined in § 13-301 or § 13-401 of the Education Article, who receives a retirement allowance from the Employees’ Retirement System of the State of Maryland or the Employees’ Pension System of the State of Maryland under Title 22 or Title 23 of this article; or

3. a former employee of the Maryland Transit Administration who receives a Maryland Transit Administration retirement allowance under § 7-206 of the Transportation Article.

(ii) “Retiree” does not include:

1. a member of the faculty or staff of a community college;

2. a teacher or a staff member employed by a county board of education; or

3. an individual who retired under an optional program under Title 30 of this article.

(4) “State service” means service with the State by:

(i) an employee while a member of the Employees’ Retirement System or the Employees’ Pension System under Title 22 or Title 23 of this article;

(ii) a member of the Judges’ Retirement System under Title 27 of this article;

(iii) a teacher while a member of the Teachers’ Retirement System or Teachers’ Pension System under Title 22 or Title 23 of this article;

(iv) a correctional officer, while a member of the Correctional Officers’ Retirement System under Title 25 of this article;

(v) an employee of the Medical System Corporation, as defined in § 13–301 or § 13–401 of the Education Article, while a member of the Employees’ Retirement System of the State of Maryland or the Employees’ Pension System of the State of Maryland under Title 22 or Title 23 of this article;

(vi) a State Police officer while a member of the State Police Retirement System under Title 24 of this article;

(vii) a law enforcement officer while a member of the Law Enforcement Officers’ Pension System under Title 26 of this article; or

(viii) an employee while a member of the Maryland Transit Administration Plan under § 7–206 of the Transportation Article.

(b) (1) This subsection applies to a retiree who:

(i) began State service on or before June 30, 2011; or

(ii) 1. began State service on or after July 1, 2011; and

2. is a retiree of the Judges’ Retirement System.

(2) A retiree may enroll and participate in the health insurance benefit options established under the Program if the retiree:

(i) ended State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;

(ii) ended State service with at least 16 years of creditable service;

(iii) ended State service on or before June 30, 1984;

(iv) retired directly from State service with a State retirement allowance on or after July 1, 1984, and had at least 5 years of creditable service; or

(v) retired directly from State service with a State disability retirement allowance on or after July 1, 1984.

(3) (i) The surviving spouse or dependent child of a deceased retiree who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic allowance under Division II of this article or the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(ii) Subparagraph (i) of this paragraph does not apply to a deceased retiree's spouse or dependent child who receives an Option 1, Option 4, or Option 7 benefit under Division II of this article or a lump-sum payment of benefits under the Maryland Transit Administration Retirement Plan under § 7-206 of the Transportation Article.

(4) (i) If a retiree receives a State disability retirement allowance or has 16 or more years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee.

(ii) In all other cases, if a retiree has at least 5 years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/16 of the State subsidy allowed a State employee for each year of the retiree's creditable service up to 16 years.

(iii) Notwithstanding subparagraph (ii) of this paragraph and subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State Racing Commission, for the purposes of determining a retiree's State subsidy, creditable service shall be determined with respect to service as an additional employee or agent beginning from the initial date of employment or January 1, 1986, whichever is later.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection applies to a retiree who begins State service on or after July 1, 2011.

(ii) This subsection does not apply to:

1. a retiree of the Judges' Retirement System; or

2. a former Governor of Maryland who began serving as Governor on or after January 21, 2015.

(2) A retiree may enroll and participate in the health insurance benefit options established under the Program if the retiree:

(i) ends State service with at least 25 years of creditable service;

(ii) ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;

(iii) retires directly from State service with a State retirement allowance and has 10 years of creditable service; or

(iv) retires directly from State service with a State disability retirement allowance.

(3) (i) The surviving spouse or dependent child of a deceased retiree who was eligible to enroll may enroll and participate in the health insurance benefit options

established under the Program as long as the spouse or child is receiving a periodic allowance under Division II of this article or the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(ii) Subparagraph (i) of this paragraph does not apply to a deceased retiree’s spouse or dependent child who receives an Option 1, Option 4, or Option 7 benefit under Division II of this article or a lump–sum payment of benefits under the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(4) (i) If a retiree receives a State disability retirement allowance or has 25 or more years of creditable service, the retiree or the retiree’s surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee.

(ii) In all other cases, if a retiree has at least 10 years of creditable service, the retiree or the retiree’s surviving spouse or dependent child is entitled to 1/25 of the State subsidy allowed a State employee for each year of the retiree’s creditable service up to 25 years.

(iii) Notwithstanding subparagraph (ii) of this paragraph and subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State Racing Commission, for the purposes of determining a retiree’s State subsidy, creditable service shall be determined with respect to service as an additional employee or agent beginning from the initial date of employment.

(d) (1) Notwithstanding subsections (b) and (c) of this section and §§ 2–509 and 2–509.1 of this subtitle, the State may establish separate health insurance benefit options for retirees that differ from those for active State employees.

(2) Subject to § 2–509.1 of this subtitle, on or after July 1, 2011, the health insurance benefit option for retirees shall include a prescription drug benefit that:

(i) has the same co–payments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees;

(ii) requires:

1. retirees who qualify for the maximum State subsidy to pay 25% of the premium for the prescription drug benefit; and

2. retirees who qualify for a partial State subsidy to pay 25% of the premium for the prescription drug benefit plus the proportional additional amount required under subsections (b)(4)(ii) and (c)(4)(ii) of this section; and

(iii) requires retirees to pay out–of–pocket limits equal to:

1. \$1,500 for the retiree only; and

2. \$2,000 for the retiree and the retiree's family.

2-509.

(a) (1) This subsection applies to a retiree of an optional retirement program under Title 30 of this article who began service as an employee of the State in the Executive, Legislative, or Judicial Branch of government on or before June 30, 2011.

(2) (i) Subject to subparagraph (ii) of this paragraph, an individual may enroll and participate in the health insurance benefit options established under the Program if the individual retired under an optional program under Title 30 of this article and:

1. ended service with a State institution of higher education with at least 10 years of service and was at least age 57;

2. ended service with a State institution of higher education with at least 16 years of service; or

3. retired directly from and had at least 5 years of service with a State institution of higher education with a periodic distribution of benefits on or after July 1, 1984.

(ii) 1. For purposes of this subsection only, years of service shall be calculated as follows:

A. except as provided in subparagraph 2 of this subparagraph, a year of service means a period of 12 months during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program; or

B. if an employee's work year is an academic year of at least 9 but less than 12 months, a year of service means a period equal to the academic year during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program.

2. To determine eligibility for health insurance benefits under this section, each year of service shall be multiplied by the participant's percentage of full-time employment for that year of service.

(iii) The surviving spouse or dependent child of a deceased individual who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(3) (i) An enrollee under this section who was in service with a State institution of higher education at the time of the retirement is entitled to the same State subsidy allowed a retiree under § 2-508(b)(4) of this subtitle. However, except as provided in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage for the enrollee and may not apply to any additional costs of coverage for the enrollee's spouse or children.

(ii) If the enrollee has 25 or more years of service as an employee of the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or the enrollee's surviving spouse or dependent child is entitled to the same State subsidy allowed a retiree with 16 or more years of creditable service under § 2-508(b)(4)(i) of this subtitle.

(b) (1) This subsection applies to a retiree of an optional retirement program under Title 30 of this article who begins service as an employee of the State in the Executive, Legislative, or Judicial Branch of government on or after July 1, 2011.

(2) (i) Subject to subparagraph (ii) of this paragraph, an individual may enroll and participate in the health insurance benefit options established under the Program if the individual retired under an optional program under Title 30 of this article and:

1. ended service with a State institution of higher education with at least 10 years of service and was at least age 57;

2. ended service with a State institution of higher education with at least 25 years of service; or

3. retired directly from and had at least 10 years of service with a State institution of higher education with a periodic distribution of benefits on or after July 1, 2011.

(ii) 1. For purposes of this paragraph only, years of service shall be calculated as follows:

A. except as provided in subparagraph 2 of this subparagraph, a year of service means a period of 12 months during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program; or

B. if an employee's work year is an academic year of at least 9 but less than 12 months, a year of service means a period equal to the academic year during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program.

2. To determine eligibility for health insurance benefits under this section, each year of service shall be multiplied by the participant's percentage of full-time employment for that year of service.

(iii) The surviving spouse or dependent child of a deceased individual who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(3) (i) An enrollee under this subsection who was in service with a State institution of higher education at the time of the retirement is entitled to the same State subsidy allowed a retiree under § 2-508(c)(4) of this subtitle. However, except as provided in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage for the enrollee and may not apply to any additional costs of coverage for the enrollee's spouse or children.

(ii) If the enrollee has 25 or more years of service as an employee of the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or the enrollee's surviving spouse or dependent child is entitled to the same State subsidy allowed a retiree with 25 or more years of creditable service under § 2-508(c)(4)(i) of this subtitle.

2-509.1.

(a) **(1)** Except as provided in subsection (b) of this section, the State shall continue to include a prescription drug benefit plan in the health insurance benefit options established under the Program and available to retirees under §§ 2-508 and 2-509 of this subtitle notwithstanding the enactment of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or any other federal law permitting states to discontinue prescription drug benefit plans to retirees of a state.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

(I) A RETIREE MAY ELECT TO COVER THE RETIREE'S SPOUSE OR DEPENDENT CHILD UNDER THE STATE PRESCRIPTION DRUG BENEFIT PLAN UNDER §§ 2-508 AND 2-509 OF THIS SUBTITLE; AND

(II) IF A SURVIVING SPOUSE OR SURVIVING DEPENDENT CHILD OF A RETIREE IS ELIGIBLE TO ENROLL IN THE STATE PRESCRIPTION DRUG BENEFIT PLAN UNDER § 2-508 OR § 2-509 OF THIS SUBTITLE, THE SURVIVING SPOUSE OR SURVIVING DEPENDENT CHILD MAY ELECT TO ENROLL IN THE STATE PRESCRIPTION DRUG BENEFIT PLAN.

(b) Except as provided in subsection (c) of this section, on January 1, 2019, the State shall discontinue prescription drug benefits for:

- (1) a Medicare–eligible retiree;
- (2) the Medicare–eligible spouse or surviving spouse of a retiree; and
- (3) a Medicare–eligible dependent child or surviving dependent child of a retiree.

(c) (1) If a retiree is eligible to participate in the prescription drug benefit plan under Medicare, but the retiree’s spouse or dependent child is not eligible to participate in a Medicare prescription drug benefit plan, the retiree may elect to cover the retiree’s spouse or dependent child under the State prescription drug benefit plan.

(2) If the surviving spouse or surviving dependent child of a retiree is eligible to enroll in the State prescription drug benefit plan under **§ 2–508 OR** § 2–509 of this subtitle, but is not eligible to participate in the prescription drug benefit plan under Medicare, the surviving spouse or surviving dependent child may elect to enroll in the State prescription drug benefit plan.

(D) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE’S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE’S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD:

(I) WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE; ~~AND~~

(II) IF THE RETIREE IS RETIRED ON OR BEFORE DECEMBER 31, ~~2018~~ 2019; AND

(III) IF THE RETIREE IS ELIGIBLE UNDER § 2–508 OR § 2–509 OF THIS SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM.

(2) (I) ~~ON~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ESTABLISH A MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM THAT ~~REQUIRES PARTICIPANTS TO PAY~~ REIMBURSES A PARTICIPANT FOR OUT-OF-POCKET ~~LIMITS EQUAL TO~~ COSTS THAT EXCEED THE LIMITS ESTABLISHED FOR NON-MEDICARE-ELIGIBLE RETIREES IN § 2–508(D)(2)(III) OF THIS SUBTITLE.

(II) THE DEPARTMENT MAY ESTABLISH AN OUT-OF-POCKET LIMIT HIGHER THAN THE LIMITS ESTABLISHED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR A RETIREE WHO QUALIFIES FOR A PARTIAL STATE SUBSIDY.

(3) THE MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY INCLUDE:

(I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR

(II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH PRESCRIPTION DRUG COSTS.

(4) A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD MAY ENROLL IN THE MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM DURING THE OPEN ENROLLMENT PERIOD OR ANY SPECIAL ENROLLMENT PERIOD FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS.

(E) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD:

(I) WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE; AND

(II) IF THE RETIREE:

1. BEGAN STATE SERVICE ON OR BEFORE JUNE 30, 2011; ~~AND~~

2. RETIRED ON OR AFTER JANUARY 1, ~~2019~~ 2020; AND

3. IS ELIGIBLE UNDER § 2-508 OR § 2-509 OF THIS SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM.

(2) (I) ~~ON~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ESTABLISH A MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM THAT REIMBURSES A PARTICIPANT FOR OUT-OF-POCKET COSTS AFTER THE PARTICIPANT HAS ENTERED CATASTROPHIC COVERAGE UNDER A PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE.

(II) THE DEPARTMENT MAY ESTABLISH A MAXIMUM REIMBURSEMENT AMOUNT FOR A RETIREE WHO QUALIFIES FOR A PARTIAL STATE SUBSIDY.

(3) THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY PROVIDE REIMBURSEMENTS THROUGH:

(I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR

(II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH PRESCRIPTION DRUG COSTS.

(4) A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD MAY ENROLL IN THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM DURING THE OPEN ENROLLMENT PERIOD OR ANY SPECIAL ENROLLMENT PERIOD FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS.

(F) (1) THIS SUBSECTION APPLIES ONLY TO A RETIREE, A RETIREE'S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE'S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD:

(I) WHO IS ENROLLED IN ~~A PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE:~~

1. THE MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION; OR

2. THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION; AND

(II) IF THE RETIREE IS ELIGIBLE UNDER § 2-508 OR § 2-509 OF THIS SUBTITLE TO ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM.

(2) (I) ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL ESTABLISH A MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG ASSISTANCE PROGRAM THAT REIMBURSES A PARTICIPANT FOR OUT-OF-POCKET COSTS FOR A LIFE-SUSTAINING PRESCRIPTION DRUG THAT IS:

1. COVERED BY ~~A~~ THE PRESCRIPTION DRUG BENEFIT PLAN IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM; AND

2. NOT COVERED BY THE PRESCRIPTION DRUG BENEFIT PLAN UNDER MEDICARE IN WHICH THE PARTICIPANT IS ENROLLED; AND.

~~3. ON A LIST DEVELOPED BY THE DEPARTMENT.~~

(II) THE DEPARTMENT SHALL DEVELOP A LIST OF THE PRESCRIPTION DRUGS THAT QUALIFY FOR REIMBURSEMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) THE DEPARTMENT MAY ESTABLISH MAXIMUM REIMBURSEMENT AMOUNTS ~~BASED ON WHETHER~~ FOR A RETIREE WHO QUALIFIES FOR ~~THE MAXIMUM STATE SUBSIDY OR FOR~~ A PARTIAL STATE SUBSIDY.

(3) THE MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG ASSISTANCE PROGRAM ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY PROVIDE REIMBURSEMENTS THROUGH:

(I) A HEALTH REIMBURSEMENT ACCOUNT ESTABLISHED IN ACCORDANCE WITH § 105(H) OF THE INTERNAL REVENUE CODE; OR

(II) ANOTHER PROGRAM THAT PROVIDES ASSISTANCE WITH PRESCRIPTION DRUG COSTS.

(4) A RETIREE, A RETIREE’S SPOUSE OR SURVIVING SPOUSE, AND A RETIREE’S DEPENDENT CHILD OR SURVIVING DEPENDENT CHILD ~~MAY ENROLL~~ SHALL BE AUTOMATICALLY ENROLLED IN THE MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG ASSISTANCE PROGRAM ~~DURING THE OPEN ENROLLMENT OR ANY SPECIAL ENROLLMENT PERIOD FOR RETIREE HEALTH INSURANCE BENEFIT OPTIONS~~ ON ENROLLMENT IN:

(I) THE MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION; OR

(II) THE MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION.

[(d)] ~~(F)~~ (G) (1) Subject to paragraph ~~[(2)]-(3)~~ of this subsection, not later than July 1, ~~[2018]~~ 2019 OF EACH YEAR, the Secretary shall provide written certified notice [to the individuals listed in subsection (b) of this section] of the change in the State prescription

drug benefit plan under this section ~~TO THE INDIVIDUALS WHO WILL BE ELIGIBLE ON OR AFTER JANUARY 1, 2020,~~ BECOME ELIGIBLE IN THE NEXT CALENDAR YEAR TO ENROLL IN THE:

(I) MARYLAND STATE RETIREE PRESCRIPTION DRUG COVERAGE PROGRAM; ~~OR~~

(II) MARYLAND STATE RETIREE CATASTROPHIC PRESCRIPTION DRUG ASSISTANCE PROGRAM; OR

(III) MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG ASSISTANCE PROGRAM.

(2) The notice shall include information regarding:

(i) coverage options available in the Medicare prescription drug benefit plan, INCLUDING OPTIONS THAT ARE SIMILAR TO THE PRESCRIPTION DRUG BENEFIT PLAN IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM; [and]

(ii) the potential for significant penalties if an individual does not promptly choose a Medicare prescription drug benefit plan immediately on termination of the individual's participation in the State prescription drug benefit plan; ~~AND~~

(III) THE PROGRAMS AVAILABLE UNDER SUBSECTIONS (D) AND, (E), AND (F) OF THIS SECTION; AND

(IV) ANY ADDITIONAL RESOURCES MADE AVAILABLE BY THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

~~(G) (1) THE DEPARTMENT SHALL PROVIDE ONE-ON-ONE COUNSELING TO MEDICARE ELIGIBLE RETIREES TO ASSIST THE RETIREE IN SELECTING A MEDICARE PART D PRESCRIPTION DRUG PLAN BASED ON THE RETIREE'S SPECIFIC MEDICAL AND MEDICATION NEEDS.~~

~~(2) IN PROVIDING THE COUNSELING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:~~

~~(I) CONTRACT TO PROVIDE THE SERVICES; AND~~

~~(II) PROVIDE THE COUNSELING;~~

~~1. FOR A PERIOD BEGINNING AT LEAST 3 MONTHS BEFORE THE MEDICARE OPEN ENROLLMENT PERIOD THROUGH THE END OF THE OPEN ENROLLMENT PERIOD; AND~~

~~2. IN THE 12 MONTH PERIOD AFTER A RETIREE BECOMES ELIGIBLE FOR MEDICARE.~~

~~(3) THE COUNSELING PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE PROVIDED OVER THE PHONE OR IN PERSON.~~

(H) (1) THE DEPARTMENT SHALL ENSURE MEDICARE-ELIGIBLE RETIREES HAVE ACCESS TO ONE-ON-ONE COUNSELING SERVICES TO ASSIST RETIREES IN SELECTING A MEDICARE PRESCRIPTION DRUG BENEFIT PLAN.

(2) THE DEPARTMENT SHALL DEVELOP A PLAN TO COMMUNICATE TO MEDICARE-ELIGIBLE RETIREES THE AVAILABILITY OF:

(I) THE PROGRAMS UNDER SUBSECTIONS (D), (E), AND (F) OF THIS SECTION; AND

(II) SERVICES AND INFORMATION REGARDING PRESCRIPTION DRUG BENEFIT PLANS UNDER MEDICARE.

(3) ON OR BEFORE DECEMBER 31, 2019, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE PLAN DEVELOPED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(4) THE REPORT REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:

(I) OPTIONS FOR PROVIDING ONE-ON-ONE COUNSELING, INCLUDING:

1. IN-PERSON, OVER-THE-PHONE, OR WEB-BASED COUNSELING;

2. THE TIMES AT WHICH ONE-ON-ONE COUNSELING WILL BE AVAILABLE;

3. A PLAN TO ENSURE EQUITABLE GEOGRAPHIC ACCESS TO ONE-ON-ONE COUNSELING; AND

4. ENTERING INTO A STATEWIDE CONTRACT WITH AN EMPLOYEE BENEFITS ADMINISTRATOR OR SIMILAR ENTITY TO PROVIDE ONE-ON-ONE COUNSELING SERVICES;

(II) PLANS FOR HOLDING SEMINARS IN EVERY COUNTY OF THE STATE TO PROVIDE INFORMATION REGARDING ELIGIBILITY FOR AND AVAILABLE BENEFITS UNDER THE PROGRAMS ESTABLISHED UNDER SUBSECTIONS (D), (E), AND (F) OF THIS SECTION;

(III) PLANS FOR PROVIDING ACCESS TO A WEB-BASED OVERVIEW AND INTERACTIVE WEBSITE THAT PROVIDE INFORMATION ON:

1. MEDICARE PRESCRIPTION DRUG BENEFIT PLANS;
AND

2. SUBSIDY AND FINANCIAL ASSISTANCE PROGRAMS FOR LOW-INCOME INDIVIDUALS; AND

(IV) PLANS FOR PROVIDING A TOLL-FREE HOTLINE FOR REPORTING ISSUES AND CONCERNS REGARDING THE SERVICES PROVIDED IN ACCORDANCE WITH THIS PARAGRAPH.

~~(H)~~ (I) SUBJECT TO THE REQUIREMENTS OF § 13-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE DEPARTMENT MAY MAKE AN EMERGENCY PROCUREMENT FOR:

(1) STAFF REQUIRED TO CARRY OUT THE PROVISIONS OF THIS SECTION; AND

(2) A THIRD PARTY TO ADMINISTER HEALTH REIMBURSEMENT ACCOUNTS ESTABLISHED UNDER THIS SECTION.

(J) THE DEPARTMENT SHALL SUBMIT QUARTERLY REPORTS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE HOUSE APPROPRIATIONS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, ON:

(1) THE STATUS OF ESTABLISHING THE PROGRAMS UNDER SUBSECTIONS (D), (E), AND (F) OF THIS SECTION, INCLUDING:

(I) THE STATUS OF PROCURING ANY CONTRACTS NECESSARY TO OPERATE THE PROGRAMS; AND

(II) THE PRESCRIPTION DRUGS DETERMINED TO QUALIFY FOR REIMBURSEMENT UNDER THE MARYLAND STATE RETIREE LIFE-SUSTAINING PRESCRIPTION DRUG ASSISTANCE PROGRAM UNDER SUBSECTION (F) OF THIS SECTION;

(2) THE AVAILABILITY OF ONE-ON-ONE COUNSELING SERVICES REQUIRED UNDER SUBSECTION (H) OF THIS SECTION;

(3) THE DETAILS OF THE HEALTH REIMBURSEMENT ACCOUNTS OR OTHER PROGRAMS TO PROVIDE ASSISTANCE WITH PRESCRIPTION DRUG COSTS FOR INDIVIDUALS ENROLLED IN THE PROGRAMS UNDER SUBSECTIONS (D), (E), AND (F) OF THIS SECTION, INCLUDING:

(I) THE SPECIFIC OUT-OF-POCKET COSTS ELIGIBLE FOR REIMBURSEMENT;

(II) THE REQUIRED PROCESS FOR RECEIVING REIMBURSEMENT;

(III) THE METHOD OF REIMBURSEMENT;

(IV) THE TIMING OF REIMBURSEMENT; AND

(V) A PLAN TO USE DEBIT CARDS TO PROCESS REIMBURSEMENTS IN A CONVENIENT AND EFFICIENT MANNER; AND

(4) IN TOTAL AND BY CATEGORY FOR THE PREVIOUS QUARTER, THE NUMBER OF ISSUES AND CONCERNS REPORTED TO THE HOTLINE.

(K) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, if the final resolution of the injunction issued in the U.S. District Court for the District of Maryland in Fitch v. State of Maryland et al, Case No. 1:18 CV-0287-PM (D. Md.) occurs on a date that is:

(1) less than 9 months before the first day of the next State health benefits open enrollment period, the following shall begin on the first day of the second State health benefits plan year immediately following the resolution:

(i) the elimination of the State prescription drug benefits for Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and Medicare-eligible dependent children or surviving dependent children of retirees under § 2-509.1(b) of the State Personnel and Pensions Article;

(ii) the establishment of the Maryland State Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance Program, and the *Maryland* State Retiree Life-Sustaining Prescription Drug Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article, respectively, as enacted by Section 1 of this Act; and

(iii) the provision of written certified notice to individuals under § 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act;
or

(2) 9 months or more before the first day of the next State health benefits open enrollment period, the following shall begin on the first day of the State health benefits plan year immediately following the resolution following the next open enrollment period:

(i) the elimination of the State prescription drug benefits for Medicare-eligible retirees, Medicare-eligible spouses or surviving spouses of retirees, and Medicare-eligible dependent children or surviving dependent children of retirees under § 2-509.1(b) of the State Personnel and Pensions Article;

(ii) the establishment of the Maryland State Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance Program, and the *Maryland* State Retiree Life-Sustaining Prescription Drug Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article, respectively, as enacted by Section 1 of this Act; and

(iii) the provision of written certified notice to individuals under § 2-509.1(g) of the State Personnel and Pensions Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, not later than September 1, 2019, the Secretary of Budget and Management shall provide written certified notice of the provisions of this Act to all:

(1) *Medicare-eligible State retirees;*

(2) *Medicare-eligible spouses and surviving spouses of State retirees;*

(3) *Medicare-eligible dependent children and surviving dependent children of State retirees; and*

(4) *State employees who are eligible, on or before December 31, 2019, to:*

(i) *enroll in a prescription drug benefit plan under Medicare; and*

(ii) *retire from State employment.*

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Budget and Management establish the Maryland State Retiree Prescription Drug Coverage Program, the Maryland State Retiree Catastrophic Prescription Drug Assistance Program, and the Maryland State Retiree Life-Sustaining Prescription Drug Assistance Program in § 2-509.1(d), (e), and (f) of the State Personnel and Pensions Article, respectively, in a manner that allows retirees to access reimbursement at the time of prescription drug purchase, through a mechanism such as debit cards.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Budget and Management attend at least one meeting each year of the Joint Committee on Pensions to update the Committee on implementation of the provisions of this Act.

SECTION ~~2~~ ~~3~~ 6. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.