

**Maryland Insurance Administration's
2010 Annual Report on the
Maryland Health Care Provider Rate
Stabilization Fund**



March 15, 2011

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Maryland Health Care Provider Rate Stabilization Fund**

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Introduction:

Chapter 1, Laws of Maryland 2005 (Senate Bill 836) created the Maryland Health Care Provider Rate Stabilization Fund. The Fund consists primarily of premium tax revenue collected from health maintenance organizations and managed care organizations.

The purposes of the Fund are to: (1) retain health care providers in the State by allowing medical liability professional insurers to collect rates that are less than the rates approved under §11-201 of the Insurance Article; (2) increase fee-for-service rates paid by the Maryland Medical Assistance Program to health care providers identified under §19-807 of the Insurance Article; (3) pay managed care organization health care providers identified under §19-807 of the Insurance Article consistent with fee-for-service health care provider rates; and (4) increase capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with §15-103(b)(18) of the Health-General Article. The Fund's revenues are allocated to the Rate Stabilization Account and the Medical Assistance Program Account. In any period that an allocation is made to the Rate Stabilization Account, up to \$350,000 is allocated annually to the Maryland Insurance Administration to provide for the costs incurred to administer the Fund.

Monies allocated to the Rate Stabilization Account are to be used to accomplish purpose (1) above by paying authorized medical professional liability insurance premium subsidies ("State subsidies") to medical professional liability insurers who wish to participate in the Fund ("Participating Insurers") on behalf of policyholders who are eligible health care providers.

State subsidies are available only to licensed physicians and certified midwives. State subsidies are not available to corporate entities through which they practice or to other health care providers.

Monies allocated to the Medical Assistance Program Account are to be used to accomplish purposes (2), (3) and (4) above by: increasing fee-for-service rates paid by the Maryland Medical Assistance Program to certain health care providers; paying certain managed care organization health care providers consistent with fee-for-service health care provider rates; and increasing capitation payments to managed care organizations participating in the Maryland Medical Assistance Program.

The Fund replaced the Maryland Medical Professional Liability Insurance Rate Stabilization Fund that had been created by Chapter 5, Laws of Maryland 2004 (Special Session).

Annual Reporting:

§19-808(c) of the Insurance Article provides that on or before March 15 of each year the Maryland Insurance Commissioner shall report to the Legislative Policy Committee, in accordance with §2-1246 of the State Government Article, the following:

- (I) For each year that an allocation is made to the Rate Stabilization Account:
 - (i) The amount of money applied for by medical professional liability insurers during the previous calendar year;
 - (ii) By classification and geographic territory, the amount of money disbursed to medical professional liability insurers on behalf of health care providers during the previous calendar year;
 - (iii) By classification and geographic territory, the number of health care providers electing not to receive a rate reduction, credit, or refund in the previous calendar year;
 - (iv) The costs incurred by the Commissioner in administering the Rate Stabilization Account during the previous calendar year, including a justification of the audit costs incurred under §19-805(i) of the Insurance Article; and,
 - (v) The amount of money available in the Rate Stabilization Account on the last day of the previous calendar year;

- (II) The amount of money available in the Fund and the Medical Assistance Program Account on the last day of the previous calendar year;

- (III) (i) The amount of money disbursed to the Maryland Medical Assistance Program under § 19-807 of the Insurance Article;

- (ii) The amount of increase in fee-for-service health care provider rates; and

- (iii) The amount of increase in capitation payments to managed care organizations;
and

- (IV) The Office of Legislative Audits' report on the receipts and disbursements of the Fund.

I. Rate Stabilization Account Uses and Fund Balance:

- (i) The amount of money applied for by medical professional liability insurers during the previous calendar year.*

During calendar year 2010 the Administration paid State subsidies from the Rate Stabilization Account to Participating Insurers on behalf of health care providers totaling \$835,426.¹ Attached as **Exhibit 1(a)** is a schedule depicting the State subsidies paid from the Rate Stabilization Account during calendar year 2010.

The State subsidy payments during calendar year 2010 were paid from funds that were allocated to the Rate Stabilization Account by §19-803(b)(3) of the Insurance Article. Specifically, \$52 million was allocated to the Account in fiscal year 2006 to pay State subsidies in calendar year 2005, \$45 million was allocated to the Account in fiscal year 2007 to pay State subsidies in calendar year 2006, and \$35 million was allocated to the Account in fiscal year 2008 to pay State subsidies in calendar year 2007. For fiscal year 2009, §19-803(b)(3) allocated an amount to be determined at the discretion of the Commissioner to pay State subsidies in calendar year 2008. However, due to practical implementation issues State subsidies are paid on a 'Subsidy Year' basis rather than a calendar year basis. A detailed explanation of the Subsidy Year concept is contained in **Appendix A** to this report.

Because the State subsidies are paid on a Subsidy Year basis, the calendar year 2010 State subsidy payments included payments for Subsidy Years 2007 and 2008. Subsidy payments made during calendar year 2010 for Subsidy Years 2007

totaled only \$12,347, and will not be discussed further in this Report. The following comments explain the amount of State subsidies applied for by, and paid to, the Participating Insurers during calendar year 2010 related to Subsidy Year 2008.

For Subsidy Year 2008 there were five medical professional liability insurers participating in the Rate Subsidy Account. The participation of one of these insurers, namely the Medical Mutual Liability Insurance Society of Maryland, was limited to State subsidies for family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at Garrett County Memorial Hospital, pursuant to §19-805(b)(3) of the Insurance Article. See **Appendix B** for additional comments on the Society's participation in the Account. Through December 31, 2010, the Participating Insurers had applied for and received State subsidy payments totaling \$7.45 million. This amount included \$746,853 paid during calendar year 2010 (the other \$6.7 million had been paid during calendar years 2008 and 2009).

Attached as **Exhibit 1(b)** is a schedule depicting the State subsidies totaling \$746,853 paid from the Rate Stabilization Account to Participating Insurers on behalf of health care providers for Subsidy Year 2008 through December 31, 2010. Based upon information obtained from the insurers, we do not anticipate making any additional State subsidy payments to Participating Insurers for Subsidy Year 2008.

(ii) By classification and geographic territory, the amount of money disbursed to medical professional liability insurers on behalf of health care providers during the previous calendar year.

Exhibit 2 summarizes by classification and geographical territory the State subsidies paid from the Rate Stabilization Account to Participating Insurers on behalf of health care providers for Subsidy Year 2008 during calendar year 2010. This information was compiled from data received from the Participating Insurers.

(iii) By classification and geographic territory, the number of health care providers electing not to receive a rate reduction, credit, or refund during the previous calendar year.

No health care providers elected to not receive a rate reduction, credit, or refund during calendar year 2010 according to the Participating Insurers.

(iv) The costs incurred by the Commissioner in administering the Rate Stabilization Account during the previous calendar year, including a justification of the audit costs incurred under §19-805(i) of the Insurance Article.

Exhibit 3 summarizes the costs incurred by the Administration in administering the Rate Stabilization Account during the calendar year 2010. In total, the Administration incurred administrative expenses totaling \$210,240 during the year. \$175,520 of these administrative expenses were actually charged to the Fund during calendar year 2010, while the remainder will be charged during calendar year 2011.

\$27,845 of the expenses represented an allocation of the Administration's internal costs based on the time expended by Administration employees on Rate Stabilization Account issues during calendar year 2010. The remaining \$182,395 represented the costs incurred during calendar year 2010 in conducting audits of Participating Insurers required by §19-805(i) of the Insurance Article.

In this regard, §19-805(i) of the Insurance Article requires the Commissioner or the Commissioner's designee to conduct an annual audit to verify the information submitted by each Participating Insurer applying for payment from the Rate Stabilization Account. As a practical matter, these audits cannot be conducted until each Participating Insurer's Subsidy Year has ended and the Participating Insurer has essentially finished requesting subsidies from the Fund for the year to be audited.

The Administration has completed the audits of each of the four Participating Insurers for Subsidy Year 2005, and has issued the reports for each of those audits. One of the completed Subsidy Year 2005 audits was of the Medical Mutual Liability Insurance Society of Maryland (the Society). That audit was essentially completed before the Society ceased participation in the Rate Stabilization Account. Because the Society's participation is now limited to GCMH Subsidies, the Administration will not conduct any additional audits of the Society.

For Subsidy Year 2006 the Administration has completed the audits of each of the five Participating Insurers, and has issued the reports for all of those audits.

For Subsidy Year 2007, the Administration has completed the audits of two of the four Participating Insurers, and has issued the reports for both audits. The Administration has completed the audit of a third Participating Insurer, and will issue the audit report in the near future. The audit of the fourth Participating Insurer is scheduled to begin later in 2011.

For Subsidy Year 2008, the Administration has completed the audit of one Participating Insurer, and will issue the audit report in the near future. The audits of the other three Participating Insurers are scheduled to begin later in 2011.

- (v) *The amount of money available in the Rate Stabilization Account on the last day of the previous calendar year.*

The Administration records receipts for this program in the Maryland Health Care Provider Rate Stabilization Fund, and then transfers funds equal to the amounts allocated by law to the Rate Stabilization Account. Through December 31, 2010, the Administration had recorded the following transactions in the Account:

- Transferred the fiscal years 2005 through 2009 allocations, totaling \$141.2 million, to the Account;
- In accordance with §§19-804(e) and 19-803(b)(3)(vi) of the Insurance Article, transferred \$83.3 million and \$17.2 million, respectively, to the Department of Health and Mental Hygiene during fiscal year 2009; and,

- Reimbursed Participating Insurers for State subsidies totaling \$39.5 million (net of the \$72.4 million repaid to the Account by the Medical Mutual Liability Insurance Society of Maryland).

The above transactions (i.e., \$141.2 million - \$83.3 million - \$17.2 million - \$39.5 million) resulted in the balance of the Account as of December 31, 2010 being equal to the Account's remaining appropriation balance of \$1.2 million. **Exhibit 4** depicts the activity in the Account through December 31, 2010.

Based upon information obtained from the Participating Insurers, we do not anticipate making any additional State subsidy payments. However, it is possible that the Participating Insurers may request additional State subsidy payments.

II. The amount of money available in the Maryland Health Care Provider Rate Stabilization Fund and the Medical Assistance Program Account on the last day of the previous calendar year:

Maryland Health Care Provider Rate Stabilization Fund

Exhibit 5 summarizes the activity of the Maryland Health Care Provider Rate Stabilization Fund for calendar year 2010. As of December 31, 2010, the Fund had a cash balance of \$12.9 million. This balance included: premium tax revenue that was transferred to the Department of Health and Mental Hygiene in January 2011 (\$11.3 million); the remaining balance of the rate stabilization Account (\$1.2 million); the remaining balance of the fiscal year 2011 appropriation to the Maryland Insurance Administration to provide for the costs incurred to administer the Rate Stabilization Fund (\$0.1 million); and a reserve for the fiscal year 2011 allocation to the Office of the

Comptroller to pay for mailings of applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program for families with children (\$0.3 million).

Medical Assistance Program Account

§19-803(b) of the Insurance Article provides for the Administration to deposit the revenue from the tax imposed on health maintenance organizations and managed care organizations under §6-102 of the Insurance Article into the Rate Stabilization Fund. For fiscal years 2010 and 2011 §19-803(b) allocated \$300,000 to the Office of the Comptroller to pay for mailings of applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program for families with children. The remaining revenue is to be disbursed to the Department of Health and Mental Hygiene's Medical Assistance Program Account. In addition, §6-121(b) of the Insurance Article provides for a nonprofit health maintenance organization to transfer an amount equal to its premium tax exemption value into the Medical Assistance Program Account.

During calendar year 2010 the Administration transferred \$117.5 million from the Fund into the Medical Assistance Program Account. This total includes \$66.7 million transferred in fiscal year 2010 and \$50.8 million transferred in fiscal year 2011. All amounts transferred into the Account were immediately disbursed to the Department of Health and Mental Hygiene for use by the Medical Assistance Program. As a result, the Account had a \$0 balance as of December 31, 2010.

With regard to fiscal year 2011, the Administration estimates that the total revenue transferred to the Account will be \$103.2 million. The Administration intends to pay the remaining \$52.4 million of the estimated \$103.2 million fiscal year 2010 revenue into the Account by June 30, 2011, and will immediately transfer that amount to the Department of Health and Mental Hygiene.

Please see **Section III** below for a more complete discussion of the activity of this Account.

III. Medical Assistance Program Account Payment and Uses:

(i) The amount of money disbursed to the Maryland Medical Assistance Program under § 19-807 of the Insurance Article:

As previously noted, for fiscal year 2011 the Administration estimates that it will disburse \$103.2 million to the Department of Health and Mental Hygiene for use by the Medical Assistance Program. \$50.8 million of this total had been transferred to the Medical Assistance Program Account as of December 31, 2010. The Administration intends to pay the remaining \$52.4 million of the estimated \$103.2 million fiscal year 2010 revenue into the Account by June 30, 2011, and will immediately transfer that amount to the Department of Health and Mental Hygiene. The Department utilized this amount as noted in sections (ii) and (iii) below.

(ii) The amount of increase in fee-for-service health care provider rates:

We were advised by the Department that it utilized funds allocated to the Medical Assistance Program to increase fee-for-service health care provider rates as follows:

1. §19-807(c)(2) of the Insurance Article requires the Department to annually use \$15 million of the allocation to increase fee-for-service health care provider rates and to pay managed care organization health care providers consistent with fee-for-service health care provider rates for procedures commonly performed by four physician specialties (i.e., obstetricians, neurosurgeons, orthopedic surgeons and emergency medicine physicians). The Department implemented these increases in fiscal year 2006 by increasing its Medicaid health care provider rates for numerous physician service codes for the four physician specialties, and has maintained these rates through fiscal year 2011.

2. In accordance with §19-807(c)(3) of the Insurance Article, beginning in fiscal year 2006 the Department utilized funds to increase fee-for-service health care provider rates, and to increase capitation payments to managed care organizations so that the managed care organizations could pay health care providers consistent with fee-for-service health care provider rates. For fiscal year 2011, rates were maintained at fiscal year 2010 levels.

The Department advised us that the total amount allocated to maintain fiscal year 2010 rates for fiscal year 2011 was \$74.5 million, supplemented by Federal Medicaid funds totaling \$74.5 million, for a total of \$149.1 million.

(iii) The amount of increase in capitation payments to managed care organizations:

We were advised by the Department that in fiscal year 2011 it allocated \$28.6 million to increase capitation payments to managed care organizations. These amounts were matched by Federal Medicaid funds for a total of \$57.2 million.

IV. Office of Legislative Audits' Report of Receipts and Disbursements of the Fund

This report with the Administration's response is attached as **Exhibit 6**.

**Maryland Insurance Administration
Rate Stabilization Account
Total Payments to Participating Insurers
Calendar Year 2010**

Insurer	Total Payments
NCRIC, Inc./ProAssurance Indemnity Company, Inc. (Note 1)	\$ 3,724
The Doctors Company, an Interinsurance Exchange	205,724
Medical Protective Company	506,751
Maryland Healthcare Providers Insurance Exchange/ Healthcare Providers Insurance Exchange (Note 2)	119,227
Total Payments Calendar Year 2010	<u>\$ 835,426</u>

Note 1 - Effective September 5, 2006 NCRIC, Inc. ceased participation in the Account, and transferred the remainder of its subsidy period to an affiliate, ProAssurance Indemnity Inc.

Note 2 - Effective October 1, 2008 Maryland Healthcare Providers Insurance Exchange ceased participation in the Account, and transferred the remainder of its subsidy period to an affiliate, Healthcare Providers Insurance Exchange.

**Maryland Insurance Administration
Rate Stabilization Account
2008 Subsidy Year State Subsidies By Insurer**

Insurer	Amount Disbursed Through December 31, 2009	Amount Disbursed Calendar Year 2010	Total Disbursed Through December 31, 2010
Medical Mutual Liability Insurance Society of Maryland (NOTE 1)	71,132	0	71,132
NCRIC, Inc./ProAssurance Indemnity Company, Inc.	1,566,928	3,724	1,570,652
The Doctors Company, an Interinsurance Exchange	2,828,473	205,995	3,034,469
Medical Protective Company	1,444,073	418,131	1,862,204
Maryland Healthcare Providers Insurance Exchange/ Healthcare Providers Insurance Exchange	793,802	119,003	912,805
Totals	6,704,408	746,853	7,451,262

NOTE 1 - The \$71,132 was paid to the Society during calendar year 2008, and represented State Subsidies for family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at Garrett County Memorial Hospital pursuant to §19-805(b)(3) of the Insurance Article. This is discussed in more detail in **Appendix B** to this Report.

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
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BALTIMORE CITY AND BALTIMORE COUNTY

ALLERGY	0	1,056
ANESTHESIOLOGY	1,839	137,642
ANESTHESIOLOGY (INCLUDING OB)	0	0
ANESTHESIOLOGY (OTHER THAN OB)	0	0
ANESTHESIOLOGY PAIN ONLY	0	2,423
CARDIOLOGY	2,163	20,220
CARDIOVASCULAR DISEASE (MINOR SURGERY)	3,659	64,024
CARDIOVASCULAR DISEASE (NO SURGERY)	1,824	63,991
CERTIFIED NURSE MIDWIFE	0	859
CLINIC GROUPS	0	0
DERMATOLOGY	0	0
DERMATOLOGY (MINOR SURGERY)	0	0
DERMATOLOGY (NO SURGERY)	1,708	10,908
EMERGENCY MEDICINE (NO MAJOR SURGERY)	0	0
EMERGENCY ROOM	0	0
ENDOCRINOLOGY (NO SURGERY)	4,732	25,426
FAMILY OR GENR'L PRACTICE (NO SURGERY)	6,403	33,200
FAMILY OR GENR'L PRACTICE-MINOR SURGERY	457	1,815
FORENSIC/LEGAL MEDICINE - EX PSYCHIATRY	0	0
GASTROENTEROLOGY	1,583	39,470
GASTROENTEROLOGY - MINOR SURGERY	0	0
GASTROENTEROLOGY - NO SURGERY	0	0
GENERAL MEDICINE	0	3,041
GENERAL PREVENTIVE MEDICINE NO SURGERY	0	0
GENERAL SURGERY	5,185	20,634
GENETICIST	0	0
GERIATRICS NO SURGERY	0	0
GYNECOLOGY	(4,588)	46,483
GYNECOLOGY MAJOR SURGERY	2,209	7,738
GYNECOLOGY (MINOR SURGERY)	0	0
GYNECOLOGY (NO SURGERY)	0	0
HAND & FOOT SURGERY	0	36,760
HEMATOLOGY	56	8,692
HEMATOLOGY - NO SURGERY	0	1,819
HEMATOLOGY- ONCOLOGY	0	2,146
HOSPITALIST/HOUSE STAFF	0	24,465
IM NO SURGERY	0	0
IM CARDIOLOGY MINOR SURGERY	0	3,661
IM CARDIOLOGY NO SURGERY	0	2,381
INFECTIOUS DISEASE NO SURGERY	0	1,631
INTENSIVE CARE MEDICINE	0	2,936
INTERNAL MEDICINE	17,382	121,002
INTERNAL MEDICINE - MINOR SURGERY	0	5,872
INTERNAL MEDICINE - NO SURGERY	4,597	51,810
MD CORPORATION	0	0
NEOPLASTIC DISEASES - MINOR SURGERY	0	2,936
NEOPLASTIC DISEASES - NO SURGERY	0	6,668
NEPHROLOGY - NO SURGERY	3,835	15,714
NEPHROLOGY - MINOR SURGERY	0	0
NEUROLOGY	0	2,916
NEUROLOGY INCLUDING CHILD - MINOR SURGERY	0	0
NEUROLOGY INCLUDING CHILD - NO SURGERY	1,306	12,686
NUCLEAR MEDICINE	0	2,167
NUTRITION	0	0
NURSE MIDWIVES	0	0
OBSTETRICS & GYNECOLOGY	13,655	126,220
OCCUPATIONAL MEDICINE	(194)	4,330
ONCOLOGY	2,654	11,847
OPHTHALMOLOGY MAJOR SURGERY	0	0
OPHTHALMOLOGY - MINOR SURGERY	0	0
OPHTHALMOLOGY - NO SURGERY	5,886	28,075
ORTHOPEDIC EXCL. BACK	22,114	157,720

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
OTOLARYNGOLOGY	844	2,387
OTORHINOLARYNGOLOGY MINOR SURGERY	0	0
OTORHINOLARYNGOLOGY NO SURGERY	0	0
PAIN MANAGEMENT	0	4,454
PATHOLOGY	0	27,019
PATHOLOGY (NO SURGERY)	76	299
PEDIATRICS	5,357	42,436
PEDIATRICS MINOR SURGERY	0	11,744
PEDIATRICS (NO SURGERY)	7,107	37,738
PHYSIATRY/PHYS MED & REHAB	600	8,855
PHYSIATRY	0	0
PHYSIATRY/PHYS MED & REHAB/ACUPUNCTURE	0	3,262
PHYSICAL MEDICINE & REHAB	0	24,025
PHYSICIANS - N.O.C. - MINOR SURGERY	1,484	4,975
PHYSICIANS - N.O.C. - NO SURGERY	1,579	6,322
PODIATRY	(794)	789
PSYCHIATRY	3,591	9,973
PSYCHIATRY - INCLUDING CHILD	0	6,162
PSYCHOANALYSIS	0	0
PUBLIC HEALTH	0	0
PULMONARY DISEASES - MINOR SURGERY	0	0
PULMONARY DISEASES - NO SURGERY	0	351
PULMONARY MEDICINE	(108)	101,434
RADIOLOGY	0	0
RADIOLOGY - THERAPEUTIC	0	0
RADIOLOGY - DIAGNOSTIC - MINOR SURGERY	0	16,437
RADIOLOGY - DIAGNOSTIC - NO SURGERY	0	2,131
RADIOLOGY INCL IVP	0	307,951
RHEUMATOLOGY	0	11,180
RHEUMATOLOGY - NO SURGERY	507	5,093
SHOCK THERAPY NOC	0	0
SURGEON - ABDOMINAL	0	0
SURGEON - CARDIAC	0	34,492
SURGEON - CARDIOVASCULAR	0	0
SURGEON - COLON AND RECTAL	0	0
SURGEON - EMERGENCY MEDICINE	0	6,899
SURGEON - FAMILY OR GENERAL PRACTICE	1,712	6,846
SURGEON - GENERAL - N.O.C.	10,446	120,472
SURGEON - GYNECOLOGY - FERTILITY/NO OB	0	4,077
SURGEON - HAND	0	0
SURGEON - NEOPLASTIC DISEASES	0	5,872
SURGEON - NEUROLOGY (INCLUDING CHILD)	0	40,042
SURGEON - OBSTETRICS & GYNECOLOGY	32,288	218,455
SURGEON - OPHTHALMOLOGY	513	41,760
SURGEON - ORTHOPEDIC	22,412	164,433
SURGEON - OTORHINOLARYNGOLOGY	0	0
SURGEON - OTORHINOLARYNGOLOGY - PLASTIC	0	0
SURGEON - PLASTIC	9,640	49,181
SURGEON - THORACIC	314	27,079
SURGEON - UROLOGICAL	16,877	73,862
SURGEON - VASCULAR	1,966	14,963
SURGICAL SPECIALTY	566	2,246
SUSPENSION (1B)	0	0
THERAPEUTIC RADIOLOGY	850	2,937
UROLOGY	1,053	19,248
VICARIOUS CHARGE UNDER INDIVIDUAL DOCTOR	0	0
Total	217,347	2,581,264

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
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MONTGOMERY, PRINCE GEORGES, HOWARD, AND ANNE ARUNDEL COUNTIES		
ALLERGY	15,062	76,878
ANESTHESIOLOGY	9,398	65,467
ANESTHESIOLOGY (INCLUDING OB)	0	0
ANESTHESIOLOGY (OTHER THAN OB)	0	0
ANESTHESIOLOGY PAIN ONLY	577	2,289
CARDIOLOGY	49	89,629
CARDIOVASCULAR DISEASE (MINOR SURGERY)	2,440	6,922
CARDIOVASCULAR DISEASE (NO SURGERY)	0	2,058
CLINIC GROUPS	0	0
DERMATOLOGY	3,576	11,384
DERMATOLOGY (MINOR SURGERY)	0	11,962
DERMATOLOGY (NO SURGERY)	0	9,734
DERMATOPATHOLOGY	0	947
EMERGENCY MEDICINE (NO MAJOR SURGERY)	0	0
EMERGENCY ROOM	802	2,684
ENDOCRINOLOGY (NO SURGERY)	2,276	11,379
FAMILY OR GENR'L PRACTICE (NO SURGERY)	1,823	71,338
FAMILY OR GENR'L PRACTICE-MINOR SURGERY	448	12,647
FORENSIC/LEGAL MEDICINE - EX PSYCHIATRY	0	0
GASTROENTEROLOGY	48,614	71,645
GASTROENTEROLOGY - MINOR SURGERY	(3,391)	97,687
GASTROENTEROLOGY - NO SURGERY	0	0
GENERAL MEDICINE	0	0
GENERAL PRACTICE NO SURGERY	0	4,329
GENERAL PREVENTIVE MEDICINE NO SURGERY	0	0
GENERAL SURGERY	1,377	60,800
GENERAL SURGERY MINOR SURGERY	0	0
GENETICIST	0	0
GERIATRICS NO SURGERY	0	0
GYNECOLOGY	2,738	23,156
GYNECOLOGY MAJOR SURGERY	0	19,913
GYNECOLOGY (MINOR SURGERY)	0	4,387
GYNECOLOGY (NO SURGERY)	0	4,135
HAND & FOOT SURGERY	0	6,300
HEMATOLOGY	540	4,452
HEMATOLOGY - NO SURGERY	574	766
HOSPITALIST/HOUSE STAFF	0	0
IM NO SURGERY	0	0
IM ALLERGY NO SURGERY	0	1,015
IM CARDIOLOGY MINOR SURGERY	0	36,937
IM CARDIOLOGY NO SURGERY	819	5,973
IM ENDOCRINE NO SURGERY	0	3,816
IM NEPHROLOGY NO SURGERY	916	8,299
IM ONCOLOGY NO SURGERY	0	14,485
IM PULMONARY MINOR SURGERY	0	(0)
IM PULMONARY NO SURGERY	855	23,523
IM RHEUMATOLOGY NO SURGERY	0	3,651
INFECTIOUS DISEASE	0	2,031
INFECTIOUS DISEASE NO SURGERY	32,216	75,935
INTENSIVE CARE MEDICINE	0	10,013
INTERNAL MEDICINE	2,092	134,268
INTERNAL MEDICINE - MINOR SURGERY	9,200	42,225
INTERNAL MEDICINE - NO SURGERY	879	61,348
MD CORPORATION	0	0
NEONATOLOGY	0	0
NEOPLASTIC DISEASES - MINOR SURGERY	0	0
NEOPLASTIC DISEASES - NO SURGERY	0	0
NEPHROLOGY - NO SURGERY	796	2,762
NEUROLOGY	0	2,497
NEUROLOGY INCLUDING CHILD - MINOR SURGERY	(188)	817
NEUROLOGY INCLUDING CHILD - NO SURGERY	343	11,385

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
NEUROSURGERY	0	79,659
NUCLEAR MEDICINE	0	0
NUTRITION	21,648	81,103
NURSE MIDWIVES	0	2,823
OBSTETRICS & GYNECOLOGY	11,059	310,450
OCCUPATIONAL MEDICINE	130	6,747
ONCOLOGY	0	0
OPHTHALMOLOGY MAJOR SURGERY	313	5,150
OPHTHALMOLOGY - MINOR SURGERY	0	988
OPHTHALMOLOGY - NO SURGERY	1,110	105,625
ORTHOPEDIC EXCL. BACK	0	1,143
OTOLARYNGOLOGY	866	24,499
OTORHINOLARYNGOLOGY MAJOR SURGERY	0	0
PAIN MANAGEMENT	0	0
PATHOLOGY	1,522	28,937
PATHOLOGY (NO SURGERY)	(450)	13,341
PEDIATRICS	460	8,177
PEDIATRICS MINOR SURGERY	12,629	33,978
PEDIATRICS (NO SURGERY)	0	37,887
PHARMACOLOGY CLINICAL	0	2,336
PHYSIATRY/PHYS MED & REHAB	0	0
PHYSIATRY	0	0
PHYSIATRY/PHYS MED & REHAB/ACUPUNCTURE	0	0
PHYSICAL MEDICINE & REHAB	3,447	31,685
PHYSICIANS - N.O.C. - MINOR SURGERY	0	0
PHYSICIANS - N.O.C. - NO SURGERY	0	0
PODIATRY	1,864	4,388
PSYCHIATRY - INCLUDING CHILD	141	3,854
PSYCHIATRY	230	15,652
PSYCHOTHERAPY	0	0
PSYCHOSOMATIC MEDICINE	0	0
PULMONARY DISEASES - MINOR SURGERY	0	0
PULMONARY DISEASES - NO SURGERY	0	0
PULMONARY MEDICINE	0	47,030
RADIATION THERAPY- NOC	0	0
RADIOLOGY - DIAGNOSTIC	3,337	78,770
RADIOLOGY - DIAGNOSTIC - MINOR SURGERY	0	97,133
RADIOLOGY - DIAGNOSTIC - NO SURGERY	0	0
RADIOLOGY INCL IVP	0	128,343
RADIOLOGY INTERVENTIONAL	0	57,344
RHEUMATOLOGY	(474)	11,729
RHEUMATOLOGY - NO SURGERY	0	0
SURGEON - ABDOMINAL	0	0
SURGEON - BARIATRICS	0	7,430
SURGEON - CARDIAC	4,861	6,287
SURGEON - CARDIOVASCULAR	0	0
SURGEON - COLON AND RECTAL	0	0
SURGEON - DERMATOLOGY	9,267	11,204
SURGEON - EMERGENCY MEDICINE	0	0
SURGEON - FAMILY OR GENERAL PRACTICE	0	0
SURGEON - GASTROENTEROLOGY	19,738	102,641
SURGEON - GENERAL - N.O.C.	0	0
SURGEON - GYNECOLOGY - FERTILITY/NO OB	2,593	9,736
SURGEON - HAND	59,351	60,524
SURGEON - NEUROLOGY (INCLUDING CHILD)	140,580	493,617
SURGEON - OBSTETRICS & GYNECOLOGY	325	165,340
SURGEON - OPHTHALMOLOGY	0	29,683
SURGEON - ORTHOPEDIC	1,458	38,090
SURGEON - OTORHINOLARYNGOLOGY	0	4,521
SURGEON - OTORHINOLARYNGOLOGY - PLASTIC	0	5,450
SURGEON - PLASTIC	(14,958)	62,629
SURGEON - SPECIALTY	0	0
SURGEON - THORACIC	0	70,739
SURGEON - TRAUMATIC	0	1,884

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
SURGEON - UROLOGICAL	0	8,787
SURGEON - VASCULAR	0	0
SURGICAL SPECIALTY	0	3,690
SUSPENSION (1B)	0	0
THORACIC CONSULTATION	0	0
URGENT CARE MEDICINE/NO HOSP. ER	0	0
UROLOGY	0	170,277
VICARIOUS CHARGE UNDER INDIVIDUAL DOCTOR	0	0
TOTAL	415,876	3,585,170
REMAINDER OF STATE (Other than Baltimore City, Anne Arundel, Baltimore, Howard, Montgomery, and Prince Georges Counties)		
ADMINISTRATIVE MEDICINE	0	2,270
ALLERGY	0	2,427
ANESTHESIOLOGY	848	10,319
ANESTHESIOLOGY (INCLUDING OB)	0	0
ANESTHESIOLOGY (OTHER THAN OB)	0	0
CARDIOLOGY	5,870	30,997
CARDIOVASCULAR DISEASE (MINOR SURGERY)	0	3,607
CARDIOVASCULAR DISEASE (NO SURGERY)	0	8,844
CERTIFIED NURSE MIDWIFE	395	3,495
CLINIC GROUPS	0	0
DENTAL LOCAL ANESTHESIOLOGY	0	0
DERMATOLOGY	0	0
DERMATOLOGY (MINOR SURGERY)	0	3,058
DERMATOLOGY (NO SURGERY)	0	0
EMERGENCY MEDICINE (NO MAJOR SURGERY)	0	0
EMERGENCY MEDICINE	0	2,655
EMERGENCY ROOM	0	0
ENDOCRINOLOGY	0	1,514
ENDOCRINOLOGY (NO SURGERY)	2,142	8,338
FAMILY OR GENR'L PRACTICE (NO SURGERY)	2,055	27,466
FAMILY OR GENR'L PRACTICE-MINOR SURGERY	(379)	23,449
GASTROENTEROLOGY	0	2,043
GASTROENTEROLOGY - MINOR SURGERY	1,773	2,533
GASTROENTEROLOGY - NO SURGERY	0	0
GENERAL MEDICINE	0	0
GENERAL PRACTICE NO SURGERY	0	0
GENERAL SURGERY	4,647	75,702
GYNECOLOGY	1,177	12,567
GYNECOLOGY MAJOR SURGERY	0	0
GYNECOLOGY (MINOR SURGERY)	0	0
GYNECOLOGY (NO SURGERY)	0	0
HAND & FOOT SURGERY	586	2,346
HEMATOLOGY	0	0
HEMATOLOGY - NO SURGERY	0	14,864
HOSPITALIST/HOUSE STAFF	0	1,247
IM MINOR SURGERY	0	0
IM NO SURGERY	0	0
IM INFECTIOUS DISEASE NO SURGERY	0	0
INFECTIOUS DISEASE	0	1,733
INTENSIVE CARE MEDICINE	0	0
INTERNAL MEDICINE	2,133	74,799
INTERNAL MEDICINE - MINOR SURGERY	257	6,854
INTERNAL MEDICINE - NO SURGERY	5,446	9,214
MD CORPORATION	0	0
NEOPLASTIC DISEASES - MINOR SURGERY	0	0
NEOPLASTIC DISEASES - NO SURGERY	0	0
NEPHROLOGY - MINOR SURGERY	0	0
NEPHROLOGY - NO SURGERY	0	2,727
NEUROLOGY INCLUDING CHILD - NO SURGERY	0	2,381
NUCLEAR MEDICINE	0	0

PROVIDER CLASSIFICATION	STATE SUBSIDIES PAID DURING CALENDAR YEAR 2010	STATE SUBSIDY PAYMENTS FOR ALL OF SUBSIDY YEAR 2008
NURSE MIDWIVES	0	0
OBSTETRICS & GYNECOLOGY	17,314	229,433
OCCUPATIONAL MEDICINE	0	126
ONCOLOGY	0	8,925
OPHTHALMOLOGY MAJOR SURGERY	91	15,746
OPHTHALMOLOGY - NO SURGERY	0	0
ORTHOPEDIC	0	10,942
ORTHOPEDIC EXCL. BACK	3,572	43,146
OTOLARYNGOLOGY	(204)	6,261
OTORHINOLARYNGOLOGY	0	1,649
PAIN MANAGEMENT	5,452	8,442
PATHOLOGY	0	17,871
PATHOLOGY (NO SURGERY)	0	0
PEDIATRICS	2,049	31,423
PEDIATRICS (NO SURGERY)	4,885	7,442
PHYSIATRY/PHYS MED & REHAB	0	863
PHYSIATRY	0	0
PHYSIATRY/PHYS MED & REHAB/ACUPUNCTURE	0	0
PHYSICAL MEDICINE & REHAB	453	9,873
PHYSICIANS - N.O.C. - MINOR SURGERY	0	1,371
PHYSICIANS - N.O.C. - NO SURGERY	0	905
PSYCHIATRISTS - EXTENDED	0	0
PSYCHIATRY - INCLUDING CHILD	(69)	2,211
PUBLIC HEALTH	0	0
PULMONARY DISEASES	0	0
PULMONARY DISEASES - MINOR SURGERY	0	0
PULMONARY DISEASES - NO SURGERY	0	5,326
PULMONARY MEDICINE	4,490	26,427
RADIOLOGY - DIAGNOSTIC	977	5,104
RADIOLOGY - DIAGNOSTIC - MINOR SURGERY	0	0
RADIOLOGY - DIAGNOSTIC - NO SURGERY	0	0
RHEUMATOLOGY - MINOR SURGERY	0	0
RHEUMATOLOGY - NO SURGERY	0	4,010
SURGEON - ABDOMINAL	0	0
SURGEON - CARDIOVASCULAR	0	0
SURGEON - COLON AND RECTAL	0	0
SURGEON - GASTROENTEROLOGY	0	8,504
SURGEON - GENERAL - N.O.C.	16,006	84,833
SURGEON - GYNECOLOGY - FERTILITY/NO OB	0	0
SURGEON - HAND	0	4,585
SURGEON - NEUROLOGY (INCLUDING CHILD)	0	0
SURGEON - OBSTETRICS & GYNECOLOGY	3,119	172,047
SURGEON - OPHTHALMOLOGY	0	0
SURGEON - ORTHOPEDIC	18,734	151,471
SURGEON - OTORHINOLARYNGOLOGY	0	3,090
SURGEON - OTORHINOLARYNGOLOGY - PLASTIC	0	0
SURGEON - PLASTIC	7,186	46,790
SURGEON - THORACIC	0	2,326
SURGEON - UROLOGICAL	2,868	5,647
SURGEON - VASCULAR	0	0
SURGICAL SPECIALTY	550	2,184
SURGERY HAND & FOOT	0	0
SUSPENSION (1B)	0	1,572
URGENT CARE MEDICINE/NO HOSP. ER	0	13,527
UROLOGY	(796)	13,307
VICARIOUS CHARGE UNDER INDIVIDUAL DOCTOR	0	0
TOTAL	113,630	1,284,828
GRAND TOTAL	746,853	7,451,262

Maryland Insurance Administration
Maryland Health Care Provider Rate Stabilization Fund
Costs Incurred by the Administration - Calendar Year 2010

General and Administrative	\$ 11,076
Review of Funding Requests	6,593
Fiscal	10,176
Audits of Participating Insurers	182,395
Total Cost for Calendar Year 2010	<u>\$ 210,240</u>

Note - The \$210,240 represents the total costs incurred in calendar year 2010 by the Administration in administering the Rate Stabilization Fund.

The amount actually charged to the Fund during calendar year 2010 was \$175,520, and included only audit costs incurred by the Administration.

The remaining administrative expenses, plus additional expenses incurred up to June 30, 2011, will be charged to the Fund up to the limit of the Administration's \$200,000 fiscal year 2011 appropriation for these expenses.

**Maryland Insurance Administration
Rate Stabilization Account
Summary of Account Activity**

Activity through December 31, 2010:

Transfers from Maryland Health Care Provider Rate Stabilization Fund	\$ 141,200,000
State Subsidies Paid Calendar Year 2005	\$ (29,551,535)
State Subsidies Paid Calendar Year 2006	(42,261,836)
State Subsidies Paid Calendar Year 2007	(23,911,651)
State Subsidies Paid Calendar Year 2008	(10,014,570)
State Subsidies Paid Calendar Year 2009	(5,363,781)
State Subsidies Paid Calendar Year 2010	(835,426)
Total State Subsidies Paid through Calendar Year 2009	<u>\$ (111,938,799)</u>
Less: Insurer Dividend Distributed to the Account (Note 1)	72,419,650
Net State Subsidies Paid through Calendar Year 2010	<u>\$ (39,519,149)</u>
Distribution to Department of health and Mental Hygiene (Note 2)	(83,275,000)
Distribution to Department of health and Mental Hygiene (Note 3)	(17,236,221)
Cash Balance as of December 31, 2010	<u><u>\$ 1,169,630</u></u>

Note 1 - The dividend distributed to the Fund represents the amount refunded to the Rate Stabilization Account by the Medical Mutual Liability Insurance Society of Maryland, as described in **Appendix B** to this report.

Note 2 - In accordance with §19-804(e) of the Insurance Article, during calendar year 2008 the Administration transferred \$83.3 million from the Rate Stabilization Account to the Department of Health and Mental Hygiene.

Note 3 - During calendar year 2009 the Administration transferred this amount to the Department of Health and Mental Hygiene in accordance with §19-803(b)(3)(vi) of the Insurance Article. This reduced the balance of the Rate Stabilization Account to the amount of the Administration's appropriation for remaining State subsidy payments as of December 31, 2009, which was \$2 million. State subsidy payments totaling 835,427 during calendar year 2010 reduced the Account balance to its current amount.

Maryland Insurance Administration
Maryland Health Care Provider Rate Stabilization Fund
Statement of Cash Receipts, Cash Disbursements and Change in Fund Balance
for the period January 1, 2010 through December 31, 2010

Receipts:

Premium taxes	\$	97,027,574
Premium tax exemption value (NOTE 1)		9,799,870
Interest income		<u>401,970</u>
Total revenue	\$	<u>107,229,414</u>

Disbursements:

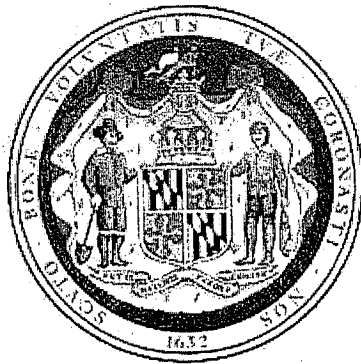
State Subsidy Payments	\$	835,426
Payments to Department of Health and Mental Hygiene		117,513,706
Payments to Office of the Comptroller		106,487
Administrative Expenses		<u>175,520</u>
Total disbursements	\$	<u>118,631,139</u>
<i>Excess of disbursements over receipts</i>		(11,401,725)
<i>Fund balance, December 31, 2009</i>	\$	<u>24,263,873</u>
<i>Fund balance, December 31, 2010</i>	\$	<u><u>12,862,148</u></u>

NOTE 1 - The premium tax exemption value equals the amount of premium taxes that a nonprofit health maintenance organization would have been required to pay if it were not exempt from premium taxation under §6-101(b)(7) of the Insurance Article.

Audit Report

Maryland Health Care Provider Rate Stabilization Fund

January 1, 2010 to December 31, 2010



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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- This report and any related follow-up correspondence are available to the public through the Office of Legislative Audits at 301 West Preston Street, Room 1202, Baltimore, Maryland 21201. The Office may be contacted by telephone at 410-946-5900, 301-970-5900, or 1-877-486-9964.
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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

March 11, 2011

Bruce A. Myers, CPA
Legislative Auditor

Delegate Guy J. Guzzone, Co-Chair, Joint Audit Committee
Senator James C. Rosapepe, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

As required by the Insurance Article, Section 19-808 of the Annotated Code of Maryland, we have audited the receipts and disbursements of the Maryland Health Care Provider Rate Stabilization Fund for the period beginning January 1, 2010 and ending December 31, 2010.

The Fund is administered by the Commissioner of the Maryland Insurance Administration (MIA), and consists primarily of revenues generated by an annual premium tax imposed on health maintenance organizations and managed care organizations. The Fund serves several purposes, including retention of certain health care providers in the State by subsidizing their medical professional liability (malpractice) insurance premiums for a specified number of years, and by increasing certain rates paid to providers by the Maryland Medical Assistance program (Medicaid) and payments to managed care organizations that serve that program. Beginning in fiscal year 2010, Fund revenue is no longer allocated for the purpose of subsidizing malpractice insurance premiums, although eligible subsidy requests applicable to previous years may still be paid.

Our audit did not include procedures designed to verify the propriety of the subsidy payments made to medical professional liability insurers since State law requires MIA to conduct annual audits of each insurer for this purpose.

A schedule of the Fund's financial activity for the 2010 calendar year is included in this report. As disclosed in that schedule, the Fund's cash balance was approximately \$12.9 million as of December 31, 2010.

Our audit did not disclose any findings that warrant mention in this report.

We wish to acknowledge the cooperation extended to us during the course of this audit by MIA.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Establishment and Purpose of the Fund

The Insurance Article, Section 19-802 of the Annotated Code of Maryland established the Maryland Health Care Provider Rate Stabilization Fund effective April 1, 2005. The law provides that the Fund will serve several purposes, including retention of certain health care providers in the State, by subsidizing their medical professional liability (malpractice) insurance premiums for a specified number of years, and by increasing fee-for-service rates paid to providers by the Maryland Medical Assistance program (Medicaid) and payments to managed care organizations that serve that program. The Fund is administered by the Commissioner of the Maryland Insurance Administration (MIA).

The Fund consists primarily of revenues generated by an annual premium tax imposed on health maintenance organizations and managed care organizations. All revenues are initially deposited into the Fund, and then allocated, in accordance with a schedule established in the law, to two accounts: the Rate Stabilization Account and the Medical Assistance Program Account. Amounts allocated to the Rate Stabilization Account are paid, in accordance with established criteria, to medical professional liability insurers who apply to MIA for rate subsidies on behalf of insured health care providers. Amounts allocated to the Medical Assistance Program Account are paid by MIA to the State's Department of Health and Mental Hygiene to increase payments to Medicaid providers and managed care organizations. The law provides that revenue allocations to the two accounts were to continue through fiscal year 2009. Beginning in fiscal year 2010, all Fund revenues, less certain administrative costs, were allocated to the Medical Assistance Program Account, although eligible subsidy requests applicable to previous years may still be paid.

Financial Information

On page 4 of this report is a summary of the receipts and disbursements for the Maryland Health Care Provider Rate Stabilization Fund for the period beginning January 1, 2010 and ending December 31, 2010, based on the State's accounting records. This summary is not intended to and does not provide the financial position and results of operations in accordance with generally accepted accounting principles. Specifically, certain financial statements and disclosures (for example, balance sheet, summary of significant accounting policies) have not been provided as would be required had this summary been prepared in accordance with generally accepted accounting principles.

SUMMARY OF FINANCIAL ACTIVITY

**January 1, 2010 to
December 31, 2010**

RECEIPTS:

Premium taxes	\$ 97,027,574
Premium tax exemption value ⁽¹⁾	9,799,870
Interest income	401,970
	<hr/>
Total receipts	107,229,414

DISBURSEMENTS:

Payments to medical professional liability insurers	\$ 835,426
Payments to Department of Health and Mental Hygiene	117,513,706
Payments to Office of the Comptroller ⁽²⁾	106,487
Administration expenses	175,520
	<hr/>
Total disbursements	118,631,139

EXCESS OF DISBURSEMENTS OVER RECEIPTS

(11,401,725)

FUND BALANCE (cash basis), December 31, 2009

24,263,873

FUND BALANCE (cash basis), December 31, 2010

\$ 12,862,148

(1) Premium tax exemption value represents amounts paid by non-profit health maintenance organizations in lieu of premium taxes.

(2) Section 19-803 of the Insurance Article of the Annotated Code of Maryland provides that up to \$300,000 shall be allocated to the Office of the Comptroller in fiscal years 2010 and 2011 to pay for mailing applications and enrollment instructions for the Maryland Medical Assistance Program and the Maryland Children's Health Program for families with children.

Findings and Recommendations

Our audit did not disclose any significant deficiencies in the design or operation of the Fund's internal control. Nor did our audit disclose any significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to MIA that did not warrant inclusion in this report.

A draft copy of this report was provided to MIA. Since there are no recommendations in this report, a written response was not necessary.

Audit Scope, Objectives, and Methodology

As required by the Insurance Article, Section 19-808 of the Annotated Code of Maryland, we have audited the receipts and disbursements of the Maryland Health Care Provider Rate Stabilization Fund for the period beginning January 1, 2010 and ending December 31, 2010. The Fund is administered by the Commissioner of the Maryland Insurance Administration (MIA). The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this audit were to examine the Fund's receipts and disbursements and related records and internal control, and to evaluate compliance with applicable State laws, rules, and regulations.

The areas addressed by the audit included cash receipts, cash disbursements, and certain required audits of Fund activity performed by MIA. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of Fund operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives.

MIA is required by law to annually audit each medical professional liability insurer that applied for a subsidy payment from the Fund to verify application information submitted by the insurer; accordingly, our audit did not include

procedures designed to verify the propriety of the amounts requested by medical professional liability insurers and the disposition of such payments.

Our audit did not include certain support services provided to the Fund by MIA. These support services (such as maintenance of accounting records and related fiscal functions) are included within the scope of our audit of MIA.

MIA's management is responsible for establishing and maintaining effective internal control over the Fund. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



BETH SAMMIS, Ph.D.
Acting Commissioner

KAREN STAKEM HORNIG
Deputy Commissioner

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March 11, 2011

Bruce A. Myers, CPA
Legislative Auditor
Office of Legislative Audits
301 West Preston Street, Room 1202
Baltimore, Maryland 21201

Dear Mr. Myers:

I acknowledge receipt of the draft audit report on the Maryland Insurance Administration Rate Stabilization Audit for the period beginning January 1, 2010 and ending December 31, 2010.

I agree that a written response to the audit report is not necessary and will not be provided.

Very truly yours;

A handwritten signature in black ink that reads "Beth Sammis".

Beth Sammis, Ph.D.
Acting Commissioner

cc: Amber M. Schon, CPA, CFE

AUDIT TEAM

Paul R. Denz, CPA
Audit Manager

Amber M. Schon, CPA, CFE
Senior Auditor

Marissa L. Eby
Michael A. Klausmeier
Staff Auditors

APPENDIX A – EXPLANATION OF ‘SUBSIDY YEAR’

For fiscal years 2006, 2007 and 2008, §19-803(b)(3) of the Insurance Article allocated \$52 million, \$45 million and \$35 million, respectively, to the Rate Stabilization Account to pay for health care provider rate reductions, credits or refunds (State subsidies) in calendar years 2005, 2006 and 2007. For fiscal year 2009, §19-803(b)(3) allocated an amount to be determined at the discretion of the Commissioner to pay State subsidies in calendar year 2008. Due to practical implementation issues discussed below regarding how the State subsidies are to be paid, during calendar year 2010 payments of State subsidies were made against both the fiscal year 2008 and 2009 allocations.

In this regard, §19-805(b)(1) of the Insurance Article generally provided that for professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2005, but prior to January 1, 2006, the subsidy shall be the amount of the increase greater than 5% of the approved rates in effect one year prior. This language proved to be problematic to implement, as all Participating Insurers do not have the same initial effective date for their rates, and while certain carriers renew policies on a common date, others renew their policies on a staggered basis. To ensure that eligible policyholders of Participating Insurers received the appropriate amount of subsidy for the premium increase derived from rates with an initial effective date in calendar year 2005, the State subsidies are being distributed on a “Subsidy Year” basis. As discussed in more detail below, the differing effective dates of the carriers’ 2005 rates creates certain timing differences regarding when Participating Insurers can apply for State subsidies on behalf of their eligible providers. However, it ensures that all eligible providers will receive subsidies for similar periods of time.

Based on a literal application of §19-805(b)(1) of the Insurance Article, certain eligible policyholders would not have received a State subsidy for calendar year 2005. Specifically, §19-805(b)(1) provided that the 2005 State subsidy was available to eligible policyholders with respect to medical professional liability insurance policies that were subject to rates that were approved for an initial effective date on or after January 1, 2005, but prior to January 1, 2006. If a Participating Insurer sought and obtained a rate increase that became effective on January 1, 2005, all of its policies written and renewed during 2005 would have been eligible for a State subsidy. However, if a Participating Insurer sought and obtained a rate increase that became effective later in 2005, then renewed their policies on a staggered basis at that rate for the next 12 months, some of its policies written and renewed on or after January 1, 2005, but prior to January 1, 2006, would not have been eligible for a 2005 State subsidy.

To illustrate, if a Participating Insurer's rates became effective on April 1, 2005, policies written on or after April 1 would have been eligible for a 2005 State subsidy. However, policies written up to and including March 31, 2005 would have been written at the pre-existing rate, and would not have been eligible for a 2005 State subsidy. Under the Subsidy Year approach, those policyholders that would not have otherwise received a 2005 State subsidy received their subsidy when their policies inceptioned or renewed in 2006 (i.e., when their policies inceptioned or renewed at the carrier's rate with an initial effective date from January 1, 2005 to December 31, 2005).

For a Participating Insurer that sought and obtained a rate increase on new and renewal business that became effective on January 1, 2005, Subsidy Year 2005 ran from January 1, 2005 through December 31, 2005. For a Participating Insurer that sought and

obtained a rate increase on new and renewal business that became effective on April 1, 2005, Subsidy Year 2005 ran from April 1, 2005 through March 31, 2006. Because State subsidies are being disbursed on a Subsidy Year basis, payments of State subsidies for Subsidy Year 2005 continued well into calendar year 2006. Similarly, the Participating Insurers' 2008 Subsidy Year followed the same periods as their 2005 Subsidy Years, resulting in the payments of State subsidies for Subsidy Year 2008 continuing well into calendar year 2010.

**APPENDIX B – PARTICIPATION BY THE MEDICAL MUTUAL LIABILITY
INSURANCE SOCIETY OF MARYLAND IN THE
RATE STABILIZATION ACCOUNT**

The \$71,132 paid to the Medical Mutual Liability Insurance Society of Maryland (the Society) during calendar year 2008 represented State subsidies for family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at Garrett County Memorial Hospital pursuant to §19-805(b)(3) of the Insurance Article. The Society was paid an additional \$95,363 for these State Subsidies during calendar year 2009. Aside from these State subsidies, the Society no longer participates in the Rate Stabilization Account.

In this regard, on September 12, 2007, the Board of Directors of the Society declared a dividend to its members in the amount of \$68.6 million. Notice of the resolution adopted by the Board approving and implementing the dividend payment was provided to the Commissioner on the same date. Pursuant to the Society's participation in the Fund, as well as certain related statutory requirements, the Society proposed in its resolution to distribute a portion of the dividend to the State (approximately \$44.2 million), with the remainder being distributed to its policyholders in the form of a credit against their renewal premiums effective January 1, 2008.

As of December 12, 2007, the Society had received subsidies on behalf of its policyholders from the Fund totaling approximately \$72.4 million, and was due an additional \$11.7 million for calendar year 2007 for a total of \$84.1 million. However, the law also provides certain conditions under which a Participating

Insurer must pay a portion of any dividend or similar distribution to the State. On September 13, 2007, the Commissioner issued an order to the Society to cease and desist from advertising, publicizing, implementing, or otherwise taking any action under or with respect to the dividend resolution adopted by the Society's Board of Directors. According to that order, a question existed as to the exact portion of the dividend to which the State was entitled. The Commissioner held public hearings on this matter, and on November 20, 2007 issued a final order requiring the Society to pay the entire dividend to the State for the benefit of the Fund. Payment was due within 30 days from the date of the order to allow the Administration and the Society to meet and determine if other alternatives to the Commissioner's order existed.

On December 12, 2007, the Board rescinded its original dividend declaration of \$68.6 million and declared a new dividend in the amount of approximately \$97.9 million. The Board proposed to divide the dividend between the Fund (\$84.1 million) and the Society's policyholders (\$13.8 million). Additionally, the Society proposed that its policyholders' 2008 rates be reduced by eight percent from the rates the Society charged in 2007. On the same date, the Commissioner and the Society entered into a consent order agreeing to the terms in the Board's proposal. The Society also agreed that in 2008 it would not participate in the Fund nor would it receive any further disbursements. On December 19, 2007, the Society transferred \$72.4 million (\$84.1 million less \$11.7 million due to the Society but not yet received) to the Administration to be credited to the Rate Stabilization Account.

The December 12, 2007 consent order did not address the separate State Subsidy under §19-805(b)(3) of the Insurance Article for family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at Garrett County Memorial Hospital (the 'GCMH Subsidies'). The Society sought clarification from the Commissioner that the GCMH Subsidies were not affected by the December 12, 2008 consent order, and provided evidence that it had paid the GCMH Subsidies for Subsidy Years 2007 and 2008 and had not included the GCMH Subsidies in its calculation of the \$72.4 million it transferred to the Administration to be credited to the Rate Stabilization Account. On November 25, 2008, the Commissioner issued another consent order in which it was ordered by the Commissioner and agreed to by the Society that: the proposed Subsidy Year 2009 GCMH Subsidy payment by the Society is permitted and not inconsistent with the December 12, 2008 consent order; and the Society may seek reimbursement from the Rate Stabilization Account for its Subsidy Year 2007, 2008 and 2009 GCMH Subsidy payments.