



**State of Maryland
OFFICE OF THE ATTORNEY GENERAL**

ANNUAL REPORT OF THE PEOPLE'S INSURANCE COUNSEL DIVISION

Fiscal Year 2012

Submitted to the Governor and General Assembly

I. INTRODUCTION

The People's Insurance Counsel Division in the Office of the Attorney General (hereinafter referred to as the "Division") submits this annual report as required by the Maryland General Assembly.¹ On or before January 1 of each year, the Division reports on the activities of in the Division the prior fiscal year. This report covers the time period from July 1, 2011 through June 30, 2012.

A. Statutory Basis and Funding

The Division was created in 2005 with the enactment of the Maryland Patients' Access to Quality Health Care Act of 2004 (hereinafter referred to as "Act").² The provisions of the Act relating to the Division have been codified in Md. Code Ann., State Government Section 6-301 through 6-308.

Funding of the Division is provided through a People's Insurance Counsel Fund consisting of funds collected by the Maryland Insurance Commissioner (hereinafter referred to as the "Commissioner") through an annual assessment from each medical professional liability insurer and homeowners' insurer issuing policies in the State. The purpose of the Fund is to pay the costs and expenses of the Division in carrying out its duties.³

B. Statutory Duties

The duties of the Division include evaluation of each medical professional liability insurance and homeowners' insurance matter pending before the Commissioner to determine whether the interests of insurance consumers are affected.⁴ The Division also reviews any rate increase of 10% or more filed with the Commissioner by a medical professional liability insurer or homeowners' insurer. If the Division determines that a rate increase is adverse to the interests of consumers, its representative shall appear before the Commissioner at any hearing on the rate

¹ Md. Code Ann., State Government § 6-308.

² The Act was introduced as an emergency measure as House Bill 2 in a 2004 Special Session of the Maryland General Assembly convened on December 28, 2004. The Bill passed and was enacted in 2005 over the Governor's veto with an effective date of January 11, 2005. The Act was amended in 2005, effective March 31, 2005, by another emergency measure, House Bill 836.

³ Md. Code Ann., State Government §§ 6-304 and 6-305. Because the duties of the Division only involve two types of insurance, homeowners insurance and medical professional liability insurance, the insurers who are assessed for the Fund are limited to the insurers issuing those types of policies in Maryland.

⁴ Md. Code Ann., State Government § 6-306(a). The Act defines insurance consumers as those insured under homeowners policies or medical professional liability insurance policies.

filing. At any time, the Division may conduct investigations and request the Commissioner to initiate an action or proceeding to protect the interests of insurance consumers.⁵

In any appearance before the Commissioner or the courts, the Division has the rights of counsel for a party to the proceeding, including summoning witnesses, cross-examination of witnesses, presenting evidence and argument.⁶ The Division may also take depositions in proceedings before the Commissioner and in proceedings in court, in accordance with applicable law and procedure.

The Division "shall have full access to the Commissioner's records," including rate filings, and shall have the benefit of all other information of the Commissioner.⁷ The Division is entitled to the assistance of the Commissioner's staff provided that the assistance is consistent with the staff's responsibilities and with the respective interests of the staff and the Division.⁸

The Division may recommend legislation on matters that promote the interests of insurance consumers in Maryland.⁹

II. DIVISION STAFF AND BUDGET

In Fiscal Year 2012, the Division was staffed by the People's Insurance Counsel, Peter K. Killough,¹⁰ an Assistant Attorney General, an analyst/investigator, and a management associate.

Three actuarial firms provided consulting services to the Division reviewing rates and other documents that were filed by insurers issuing policies in Maryland. The following

⁵ The Division's duties are described in Md. Code Ann., State Government § 6-306.

⁶ Md. Code Ann., State Government § 6-307. See page 6 for a discussion of the 2009 Decision of the Court of Appeals interpreting "the rights of counsel to a party" in *People's Insurance Counsel Division v. Allstate Insurance Co.*, 408 Md. 336, 969 A.2d 971 (2009).

⁷ Md. Code Ann., State Government § 6-307(c). The Division's access to information is only limited by applicable statutes in the Insurance Article and the Maryland Public Information Act, State Government Article, §§ 10-611 to 10-630.

⁸ Md. Code Ann., State Government § 6-307 (c)(2).

⁹ Md. Code Ann., State Government § 6-307(d).

¹⁰ Mr. Killough was appointed by Attorney General Douglas F. Gansler and the appointment was confirmed by the Senate on February 16, 2009, as required by Md. Code Ann., State Government § 6-302(a)(2).