House Legislative Analysis Section

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GROUP HEALTH: REPLACEMENT COVERAGES

House Bill 4537-4538 as enrolled
Second Analysis (2-1-90)

Sponsor: Rep. Ken Sikkema
House Committee: Insurance
Senate Committee: Commerce & Technology

THE APPARENT PROBLEM:

There are reports companies sometimes decide to reduce the cost of providing health care coverage by dropping employees or dependents with certain conditions or by limiting the amount of coverage available to them. This can be accomplished by switching from one group disability (health) insurance policy to a new one that eliminates people with certain conditions or that provides more restrictive treatment of certain pre-existing conditions. (Pre-existing conditions are conditions a person has at the time he or she begins to be covered by an insurance policy. A policy can deny benefits for such conditions for up to two years under a waiting period known as a pre-existing condition limitation.) In one case reported to insurance regulators, an employee of a small company in western Michigan discovered when her husband, who was disabled, was hospitalized that the new company health policy did not cover any disabled dependents, and so her employee benefits would not pay for her husband's treatment, although it would have been covered under the old group policy. In another, somewhat different case, a family with a child in need of a liver transplant discovered that they would be subject to a nine-month waiting period before being eligible for transplant coverage under a new group policy of the father's employer. (This kind of problem can occur even when a company is upgrading or improving its insurance coverages.) Obviously, practices such as these can cause severe hardship to employees and their families.

THE CONTENT OF THE BILL:

The bills would prohibit a group disability insurance policy that was replacing other group coverage from containing certain kinds of limitations and exclusions. One set of provisions would apply to group coverage for ten or more employees or members, another set to group coverage for fewer than ten employees or members.

Ten or more

A group disability policy replacing an existing policy would be prohibited from including a limitation on a person or from excluding a person who was covered under the old coverage if the person was a member of the class or classes of individuals eligible for coverage under the new policy, except as specifically permitted.

The bills would require that when a replacement policy contained a pre-existing condition limitation (i.e., a waiting period), the level of coverage in the new policy for a person who had been covered for that condition under the old policy would have to be at least equal to the lesser of: 1) the benefits of the old coverage or 2) the coverage of the new policy without the waiting period. (For example, if an employer switched from a policy that covered liver transplants up to $100,000 to a policy that covered transplants up to $1 million but with a nine-month waiting period, a person would have to be covered under the new plan up to $100,000 without being subject to the waiting period.)

Fewer than ten

Group disability coverage that replaced existing coverage issued or renewed after January 1, 1992, could not contain a waiting period of more than six months on an individual covered under the old coverage nor exclude a person covered under the old policy if he or she is a member of the class or classes of individuals eligible for coverage under the new policy. Further, if new coverage contains a preexisting condition limitation (waiting period), the old coverage would have to extend benefits for the excluded condition until the waiting period expires or for six months, whichever is less. (If a person is not covered under the old coverage due to an unexpired waiting period, he or she would be covered under that coverage once the waiting period expired.) If there is a dispute between the old carrier and new carrier as to whether a person's condition is included within a preexisting condition limitation, benefits would be paid by the new carrier while the dispute is resolved. (The requirements imposed on the old coverage would only apply if it had been in effect for at least six months when replaced.)

The bills would not, however, preclude a reduction or limitation of benefits that applied to an entire plan.

House Bill 4537 would amend the Insurance Code (500.3607) to apply to commercial insurance companies. House Bill 4538 would amend the Nonprofit Health Care Corporation Reform Act (550.1401c) to apply to Blue Cross and Blue Shield of Michigan. Both bills would take effect January 1, 1992.

FISCAL IMPLICATIONS:

According to the Department of Licensing and Regulation, the bill has no fiscal implications for the state. (5-2-89)

ARGUMENTS:

For:

Insurance regulators say it is unfair and violates the risk-sharing principles of group insurance for companies to eliminate some employees and dependents from coverage because they have certain kinds of health problems or to limit coverage on that basis. Some companies now decide that they can cut costs by eliminating some of the people covered under a group health insurance policy and switch to a new policy to accomplish that. (It could also occur inadvertently.) This can result, unconscionably, in severe economic hardship for those whose benefits are reduced or eliminated. Insurance officials say this happens mostly with small companies and employer trusts because large

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employer groups are not allowed to discriminate in this manner. The bills would say that new group coverage must treat group members with pre-existing conditions fairly so that people who had been covered for treatment of certain health conditions do not lose that coverage. Employers would not be prevented from reducing or limiting benefits that apply to all group members, but could not discriminate against group members with particular health problems.

Against:

Insurance industry representatives say that this is not an insurance problem as such, but a problem between employers and employees. Yet the bills put the responsibility on insurance companies and limit their activities. Perhaps employers should be required to notify employees of the terms of new policies.

Against:

The bill could result in higher costs for small employers offering group health coverage because they will not be able to drop disabled employees and dependents or restrict benefits of people suffering from certain conditions. This is done now to cut health insurance costs.