SFA BILL ANALYSIS

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House Bill 4537 (Substitute S-2 as reported)
House Bill 4538 (Substitute S-2 as reported)
Sponsor: Representative Ken Sikkema
House Committee: Insurance
Senate Committee: Commerce and Technology

Date Completed: 12-5-89

RATIONALE

Reportedly, insurers sometimes decide to reduce the cost of providing group health coverage by dropping employees or dependents with a particular condition or by limiting the amount of coverage available to them. This can be accomplished by switching from one group disability policy to a new one that eliminates individuals who have certain conditions or provides more restrictive treatment of certain preexisting conditions. (Preexisting conditions are conditions a person has at the time he or she begins coverage under a policy. Policies commonly deny benefits for such a condition for up to two years under a waiting period known as a preexisting condition limitation.) Evidently, this practice can cause severe hardship to employees and their families. In one reported case, for example, an employee of a small western Michigan company discovered, when her disabled husband was hospitalized, that the new company health policy did not cover any disabled dependents, although the husband's treatment would have been covered under the old group policy. In another case, a family with a child in need of a liver transplant reportedly learned that the family was subject to a nine-month waiting period before becoming eligible for transplant coverage under a new group policy of the father's employer. To minimize the hardship on employees and their families, it has been suggested that waiting periods be statutorily regulated.

CONTENT

House Bill 4537 (S-2) would amend the Insurance Code and House Bill 4538 (S-2) would amend the Nonprofit Health Care Corporation Reform Act generally to prohibit a group disability insurance policy or certificate that was replacing other group disability coverage from including a limitation on a person or excluding a person who was covered under the old policy if the person were a member of the class or classes of individuals eligible for coverage under the new policy or certificate. If a replacement policy did contain a preexisting condition limitation, the bills would require that the condition continue to be covered under the new or old policy, depending on whether 10 or more, or fewer than 10, individuals were covered by the new policy. The bills would take effect January 1, 1992.

If a replacement policy that covered 10 or more individuals contained a preexisting condition limitation (waiting period), coverage in the new policy for an individual 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 until the individual's waiting period expired under the replacement policy, or 2) the coverage of the new policy without application of the waiting period.

If existing group disability coverage issued or renewed on or after January 1, 1992, were

H.B. 4537 & 4538 (12-5-89)

replaced by a group policy that contained a preexisting condition limitation and insured under 10 employees or members, the old policy would have to extend benefits for the excluded condition until the waiting period expired or six months had elapsed, whichever occurred first. If an individual were not covered for a condition under an old policy because a waiting period in that policy had not expired, the individual would be covered for that condition under the old coverage when the waiting period expired. If there were a dispute between a replacement carrier and a replaced carrier as to whether an individual's condition were included within a preexisting condition limitation, benefits would have to be paid by the replacement carrier pending resolution of the dispute. These provisions would apply only to the extent that benefits would have been available for the preexisting condition under an old policy. Also, these provisions would apply only if the replaced master coverge had been in effect for at least six months.

If existing group disability coverage issued or renewed on or after January 1, 1992, were replaced by a group disability insurance policy that contained a waiting period and insured fewer than 10 employees or members, the replacement policy could not include a limitation for more than six months upon an individual or exclude an individual who was covered by the old policy if the individual were a member of the class or classes of individuals eligible for coverage under the new policy.

The bills specify that they would not preclude an elimination, reduction, or limitation of benefits that applied to an entire plan. The bills would apply to individuals who were covered under an old policy at the time of replacement, and would not apply to individuals who became eligible for or applied for coverage under a replacement policy after it was issued.

The bills would define "disability coverage" as expense-incurred hospital, medical, or surgical coverage. House Bill 4537 (S-2) also would define "disability insurance policy" as an expense-incurred hospital, medical, or surgical insurance policy.

Proposed MCL 500.3607 (House Bill 4537)
550.401c (House Bill 4538)

SENATE COMMITTEE ACTION

The Senate Commerce and Technology Committee adopted substitutes that propose different requirements for policies that cover fewer than 10 individuals. The substitutes' requirements for policies covering 10 or more individuals would have applied to all policies under the House-passed versions of the bills. The substitutes also describe the individuals to whom the bills would apply, and include a January 1, 1992, effective date.

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

Insurance regulators and others believe that 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 insurers decide that they can cut costs by eliminating some people covered under a group health insurance policy, and switch to a new policy to accomplish that (although this also can occur inadvertently when a company is upgrading or improving its insurance coverge). This practice can result in severe economic hardship for those whose benefits are reduced or eliminated. The bills would require that new group coverage treat group members with preexisting conditions fairly, so that people who had been covered for treatment of certain health problems do not lose that coverage. Employers would not be prevented from reducing or limiting benefits that applied to all group members, but could not discriminate against group members with particular health conditions.

Opposing Argument

This is not an insurance problem, as such, but a problem between employers and employees. The bills, however, would put the onus on, and limit the activities of insurers.

Opposing Argument

The bills could result in higher costs for small

employers offering group health coverage, because they would no longer be able to drop disabled employees and dependents or restrict benefits of people suffering from certain conditions in order to cut health insurance costs

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