House
Legislative
Analysis
Section

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UNIVERSAL LIFE/MED. MAL. FEES

Senate Bill 716 with House committee amendments
Sponsor: Sen. Paul Wartner
Senate Committee: Commerce
House Committee: Insurance

Complete to 12-14-93

ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SENATE BILL 716 DATED 11-3-93

The House Insurance Committee added amendments to the Senate-passed version of Senate Bill 716 that would eliminate as of October 1, 1994, the assessment medical malpractice insurance companies must pay to support the medical malpractice arbitration program. Instead, the arbitration fees and administrative costs of an arbitration not completed before October 1, 1994, would be paid by the insurance company representing the defendant.

Recent legislation on medical malpractice (Senate Bill 270, which became Public Act 78 of 1993) repeals, effective April 1, 1994, the chapter of the Revised Judicature Act that provides for the medical malpractice arbitration program. (However, cases based on arbitration agreements entered into until that day apparently would still be arbitrated.) Representatives of malpractice insurers say assessments for the program have been paid through September 30, 1994.

ARGUMENTS:

For:

A spokesperson for Physicians Insurance Company of Michigan (PICOM) has argued that they and other licensed medical malpractice insurers have been paying the cost of the medical malpractice arbitration program, even though others use the program as well, including unlicensed insurers, such as surplus lines insurers and offshore captives. The program, they say, costs close to $500,000 per year, about one-fifth of which is for activities of the state insurance bureau, with the remainder going to the private vendor operating the arbitration program. Insurers have paid assessments sufficient to carry the program six months past the date when arbitration agreements will no longer be entered into; they should not be asked to do any more. (Insurers cite a study saying the arbitration program has been unsuccessful because of low participation. This is due, reportedly, to the voluntary nature of the program and the lack of incentives to participate in arbitration rather than go to court.) It is only fair to ask other program participants to pay for the cost of the program beyond October 1, 1994.

Senate Bill 716 (12-14-93)

Against:

A representative from Arbitration Services, Inc., the vendor that operates the medical malpractice arbitration program for the state, argued before the House Insurance Committee that it is premature to cut off insurance company assessments for the arbitration program. Cases will be coming into the system until the repeal date, April 1, 1994, and there is no way to know when all the cases will have been dealt with. They will likely extend past the October 1 funding cutoff date proposed in this amendment. It will be difficult to obtain payment from other sources, which will mean there will not be sufficient funding for arbitration program managers to carry out their responsibilities. The standard way of funding this program should be kept in place until the activities cease. At least action on funding should be delayed until next year when the future of arbitration proceedings will be clearer. (The company says that it has reduced program costs and made the program more effective since it took over the contract in 1990.)

(Note: for information on the provisions of the Senate-passed version of the bill regarding universal life insurance, see the Senate Fiscal Agency analysis dated 11-3-93.)