

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 740 (Substitute S-2 as reported)
Sponsor: Senator Dale L. Shugars
Committee: Health Policy and Senior Citizens

Date Completed: 3-13-98

RATIONALE

Health insurance policies or contracts commonly require the insured to pay a copayment or deductible for health treatments or services. While some health insurance policies require a standard copayment for services rendered, others require a copayment based upon a percentage of the cost of the care; for instance, if an insured's policy requires a 10% copayment, then the insured must pay \$10 for a \$100 charge.

It has been pointed out, however, that sometimes there is a difference between the amount a health care provider usually charges for a service, and the amount the provider has agreed to accept as payment from the insurance company as negotiated in a contract between the provider and the insurer. Reportedly, in some states there have been instances in which the insured has been required to pay the copayment based upon the provider's usual charge for a service, rather than the smaller amount that the provider had agreed to accept from the insurer. This means, then, that an insured with a 10% copayment who received a procedure that usually costs \$800 would be charged \$80, but if the provider were only paid \$500, the insurer actually would be collecting a 16% copayment ($\$80 \text{ copayment} \div \$500 \text{ charge} = 16\%$), or \$30 more than it should, in this example.

Since Michigan law has no prohibition against basing copayments on amounts charged rather than amounts actually paid, it has been suggested that insurers be required to base copayments on the lesser of the amount charged for a service or the amount the provider agreed to accept.

CONTENT

The bill would amend the Nonprofit Health Care Corporation Reform Act, which governs Blue Cross and Blue Shield of Michigan (BCBSM), to provide that any provision for a copayment or deductible

that stated what percentage of a claim BCBSM would pay, and what percentage the subscriber would pay, would have to be calculated upon and applied toward "actual total costs"; that is, the amount the provider of a covered service had agreed to accept as payment in full from BCBSM for the service, rendered before a copayment or deductible was applied. The bill would apply to BCBSM policies delivered, issued for delivery, or renewed in 1999 or thereafter.

The bill is tie-barred to House Bills 5100 and 5101. House Bill 5100 would amend the Insurance Code, and House Bill 5101 would amend the Public Health Code, to place on policies delivered by insurers, or health maintenance organizations, respectively, requirements similar to those proposed in Senate Bill 740 (S-1).

Proposed MCL 550.1405a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Some concern has arisen recently regarding the computation of percentage-based copayments paid by insured persons for health services. It has been pointed out that in some state disputes have occurred when an insured has been required to pay a copayment based upon a percentage of the health care provider's charge, rather than the lesser amount that the provider had agreed to accept as payment for the service from the insurance company. In a 1995 Federal case in Ohio, for example, the judge declared illegal a health insurance company's practice of negotiating discounts with hospitals but failing to pass on the savings to patients.

Blue Cross and Blue Shield of Michigan has stated that it already computes copayments based upon the lesser of the amount charged, or the amount actually paid, for a service. The bill would ensure that an insured person who must pay copayments or deductibles on a percentage basis would not end up paying a copayment that actually exceeded the percentage that the insurer has required him or her to pay.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

Fiscal Analyst: J. Walker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.