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House Bill 5284 (Substitute S-2)
House Bill 5285 (as passed by the House)
Sponsor: Representative Barbara Farrah (H.B. 5284)
Representative Joe Hune (H.B. 5285)
House Committee: Insurance
Senate Committee: Health Policy

Date Completed: 4-16-08

CONTENT

House Bills 5284 (S-2) and 5285 would amend the Nonprofit Health Care Corporation Reform Act and the Insurance Code, respectively, to allow a subsidiary of Blue Cross and Blue Shield of Michigan (BCBSM), to market and transact types of insurance in addition to worker's compensation, employer's liability, and disability insurance, if it deposited \$100.0 million into a particular fund and if BCBSM and the subsidiary did not share or subsidize the use of certain information, arrangements, or provider discounts.

House Bill 5284 (S-2) is tie-barred to House Bills 5283 and 5285. House Bill 5285 is tie-barred to House Bill 5284. House Bill 5283 (S-2) would amend the Nonprofit Health Care Corporation Reform Act to create the "Charitable and Social Mission Fund", which would have to be used to subsidize the cost of individual health coverage; require BCBSM's surplus, if excessive, to be deposited into the Fund; add two public members to BCBSM's board of directors; require BCBSM to report certain information biennially to the Legislature; permit rates to include differentials based on tobacco use and participation in covered health screenings and wellness programs; and shorten timelines in the rate approval process. The bill also would make BCBSM subject to Chapter 37A of the Insurance Code, which House Bill 5282 (S-2) would add to regulate individual health coverage plans offered by BCBSM, health insurers, and health maintenance organizations.

House Bills 5284 (S-2) and 5285 are described below in detail.

House Bill 5284 (S-2)

Under the Nonprofit Health Care Corporation Reform Act, the articles of incorporation of a nonprofit health care corporation (i.e., BCBSM) must contain the corporation's purposes, which include engaging in activity otherwise authorized by the Act, within the purposes for which corporations may be organized under the Act. The bill would add to this purpose owning subsidiary corporations that were organized under other acts as otherwise authorized by the Act.

The Act prohibits BCBSM from marketing or transacting any type of insurance described in Chapter 6 of the Insurance Code (i.e., life, disability, property, marine, inland navigation and transportation, legal expense, automobile, casualty, and surety and fidelity insurance).

The bill would delete a provision stating that the prohibition may not be construed to prohibit the provision of prepaid health care benefits.

Under the bill, if authorized by a certificate of authority granted to it by the Commissioner of the Office of Financial and Insurance Regulation and after payment of \$100.0 million into the proposed Charitable and Social Mission Fund, a subsidiary of BCBSM could market or transact any type of insurance described in Chapter 6, as long as BCBSM or the subsidiary did not provide directly or indirectly to each other or otherwise subsidize the use of any provider or subscriber information, loss data, contract, agreement, reimbursement mechanism or arrangement, computer system, or health care provider discount.

The Act allows BCBSM to establish, own, and operate a domestic stock insurance company only for the purpose of acquiring, owning, and operating the State Accident Fund pursuant to Chapter 51 of the Insurance Code (which provided for the transfer of the State Accident Fund to a domestic stock insurer owned by BCBSM), as long as certain requirements are met. For insurance products and services, the insurer may transact only worker's compensation and employer's liability insurance, transact disability insurance limited to replacement of loss of earnings, and act as an administrative services organization for an approved self-insured worker's compensation plan or a disability insurance plan limited to replacement of loss of earnings, and may not transact any other type of insurance notwithstanding the authorization in Chapter 51 of the Code. The bill would delete this criterion, as well as a provision stating that it does not preclude the insurer from providing noninsurance products and services, either directly or indirectly, as otherwise provided by law.

The Act also allows BCBSM to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of bonds or other obligations, shares, or other securities or interests issued by a domestic, foreign, or alien insurer, as long as the activity meets certain criteria. The bill would add a requirement that, for transfer of capital within a holding company system, BCBSM comply with, and the transfer satisfy the applicable provisions of, Chapter 13 of the Insurance Code (Holding Companies).

House Bill 5285

Subject to the requirements of the Insurance Code applicable to domestic stock insurers, domestic mutual insurers, reciprocals or inter-insurance exchanges, and the further requirements of Chapter 51, at least 13 people may organize a stock insurer or at least 20 may organize a mutual insurer for the purpose of transacting any or all of the following kinds of insurance: property, marine, inland navigation and transportation, casualty, or fidelity and surety. Once organized and authorized, the acquiring insurer is subject to all the applicable provisions of the Code.

If the acquiring insurer is a domestic stock insurer owned by BCBSM, then for insurance products and services, the acquiring insurer may transact only worker's compensation insurance and employer's liability insurance, transact disability insurance limited to replacement of loss of earnings, and act as an administrative services organization for an approved self-insured worker's compensation plan or a disability insurance plan limited to replacement of loss of earnings. This provision does not preclude the acquiring insurer from providing noninsurance products and services either directly or indirectly as otherwise provided by law. The bill would delete these provisions.

MCL 550.1202 et al. (H.B. 5284)
500.5104 (H.B. 5285)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 5284 (S-2) refers to a one-time \$100.0 million payment into a Charitable and Social Mission Fund, which would be created by a proposed Senate substitute to House Bill 5283. The Charitable and Social Mission Fund would provide subsidies to individuals for the purchase of individual health insurance. These subsidies would increase the number of people in the State with health insurance, which would marginally reduce the amount of uncompensated care, especially for hospitals. As several hospitals in Michigan are owned by local units of government, a reduction in uncompensated care would lead to a reduction in costs for those units. A reduction in uncompensated care at the other publicly owned hospital, University Hospital in Ann Arbor, would lead to a reduction in costs for the University of Michigan.

House Bill 5285 would have no fiscal impact on State or local government.

Fiscal Analyst: Steve Angelotti

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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.