Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5855 (Substitute H-2 as reported without amendment)
Sponsor: Representative Kate Segal
House Committee: Insurance
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 6-25-10

RATIONALE

The State of Michigan contracts with licensed health maintenance organizations (HMOs) to provide health benefits to Medicaid recipients. The Insurance Code requires HMOs to give at least 30 days' notice to subscribers before changing a health maintenance contract or charged rate. A problem arose in the summer of 2009 when Executive Order 2009-22 ordered expenditure reductions to address a shortfall in the State's fiscal year 2008-09 budget. The Department of Community Health therefore eliminated optional services in the Medicaid program, resulting in a change in benefits to Medicaid HMO subscribers. Although this triggered the Insurance Code's 30-day notice requirement, the elimination of Medicaid benefits took effect before the end of that 30-day period. Consequently, HMOs that provide health maintenance contracts to Medicaid recipients had to continue covering certain services that were no longer included in the Medicaid program. To prevent this sort of situation from recurring, it has been suggested that HMOs providing services through State and Federal health programs should be excluded from the 30-day prior notice requirement and instead be required to notify subscribers after a change in law resulted in a change to a health maintenance contract.

CONTENT

The bill would amend the Insurance Code to exclude a health maintenance organization issuing contracts in connection with State and Federal health programs from a requirement to give at least 30 days' advance notice of a change in a contract or rate, if a change in State or Federal law or rules did not allow time for the required notice. In that case, the HMO would have to provide notification within 30 days after the change took effect.

Under the Code, not less than 30 days before the effective date of a proposed change in a health maintenance contract or charged rate, an HMO must issue a clear written statement of the extent and nature of the proposed change to each subscriber or group of subscribers who will be affected by the proposed change.

Under the bill, with respect to health maintenance contracts issued in connection with State and Federal health programs under Section 3571 of the Code (described below), advance notice would not be required if the change in a contract or rate arose from a change in the law, a State or Federal administrative order, or an executive order, and the change did not provide for a reasonable period of time for an HMO to give the required notice. In that case, the HMO would have to give notice within 30 days *after* the effective date of the change.

(Section 3571 specifies that an HMO is not precluded from meeting the requirements of, receiving money from, and enrolling beneficiaries or recipients of State and Federal health programs, as long as it meets the Code's solvency and financial requirements and is not in receivership or under supervision. An HMO issuing contracts under Section 3571 is not required

to offer benefits or services that exceed the requirements of the State or Federal health program. Section 3571 does not apply to State employee or Federal employee health programs.)

MCL 500.3525

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

As noted above, health maintenance organizations are required to give subscribers 30 days' notice before implementing changes to contracts or rates charged. Changes applicable to contracts under a State and Federal health plan, such as Medicaid, due to changes in the law may not leave sufficient time for HMOs that provide those services to meet the 30-day notice requirement. Indeed, this situation occurred in 2009 when the Governor issued an executive order that resulted in the loss of optional services for adult Medicaid recipients, and the Department of Community Health did not issue its policy bulletin on those reductions until just a few days before the policy's effective date. Consequently, Medicaid-plan HMOs were forced for a period of time to continue offering services for which they no longer were reimbursed under the Medicaid program. With the thin margins under which Medicaid-program HMOs operate, incurring expenses for unreimbursed benefits was an unnecessary and unforeseen hardship.

By excusing health maintenance contracts issued in connection with State and Federal health programs from the 30-day advance notice requirement under the circumstances described in the bill, it would help Medicaid HMOs to avoid suffering the losses they did as a result of the 2009 executive order. The bill would require those HMOs to notify subscribers within 30 days after the effective date of the contract change, so Medicaid recipients still would receive timely notice of a change in coverage or rates.

Opposing Argument

Allowing HMOs to notify subscribers of contract changes after those changes took effect could expose the subscribers to the risk of incurring charges for services that were no longer covered by Medicaid.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Steve Angelotti