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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/09

SPONSOR Heaton LAST UPDATED \_\_\_\_\_ HB 110

SHORT TITLE Health Insurance Guaranteed Issue SB \_\_\_\_\_

ANALYST Hanika-Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to HB 109 and HB 111

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Health Policy Commission (HPC)

Department of Health (DOH)

Human Services Department (HSD)

General Services Department/Risk Management Division (GSD/RMD)

### SUMMARY

#### Synopsis of Bill

House Bill 110 amends the New Mexico Insurance Code by enacting a new section requiring guaranteed issue by health insurers regardless of preexisting conditions. Provides that a health insurer may impose a waiting period not to exceed six months before payment for services related to preexisting conditions. A health insurer may continue an individual policy in existence on July 1, 2009 that has a permanent exclusion of payment for a preexisting condition until renewal. Upon renewal, the insured may opt to continue the policy with the exclusion for the preexisting condition if so chooses.

Deletes language in the New Mexico Insurance Code that allows an insurer to provide a rate quote for a health plan using gender as a premium rating factor. Retains geography and age as rating factors.

## **House Bill 110 – Page 2**

Requires that an insured's privacy and confidentiality are protected for individual health insurance policies pursuant to the Federal Health Insurance Portability and Accountability Act.

Revises the definition of "small employer" such that a "small employer" employs no less than one (as opposed to two in existing statute) and no more than fifty employees.

### **FISCAL IMPLICATIONS**

The underwriting risk and benefit of this benefit segment may be spread across all carriers, not just those participating by statutory requirement in the HIA. HSD reports that health insurance carriers required by statute to participate in the Health Insurance Alliance (HIA) pay an annual assessment to cover the cost of medical care, and administrative overhead. The amount of assessments paid by carriers may be lowered as self-employed individuals and their dependents have greater choices in the market and choose to purchase small group coverage outside the HIA.

Rating restrictions could limit premiums and regulatory constraints could increase costs impacting health insurance insurer profits.

Average premiums and premiums paid by low-risk individuals may increase, while premiums paid by high-risk individuals may decrease.

### **SIGNIFICANT ISSUES**

HB 110 is part of Governor Richardson's 2009 Health Care Reform legislative package. Provides for guaranteed issue of individual health insurance policies by health insurers. Individuals will have a choice of coverage through a market-based policy offered by a commercial insurer or the New Mexico Medical Insurance Pool (high risk pool) if they qualify for NMMIP coverage

Insurance companies, being profit-making entities, avoid providing health insurance to individuals who have known health problems. By protecting profits through medical underwriting of new applicants, they (inadvertently) create barriers to coverage.

Persons currently do not have the protections of guaranteed issue. They can be rejected for insurance coverage due to information from medical information that reveals a preexisting condition based on diagnosis, treatment and/or medications prescribed.

Guaranteed issue and community rating reforms in the individual market are designed to make health insurance more accessible by ensuring that unhealthy or older individuals are not denied coverage or charged premiums higher than they can afford.

### **PERFORMANCE IMPLICATIONS**

The law would apply to any person requesting coverage for new policies as of January 1, 2010, and for policy renewals beginning July 1, 2009.

Guaranteed issue already exists in the **group** market by federal law.

Exempt are limited-benefit insurance policies intended to supplement major medical coverage such as Medicare supplements, long-term care, disability income, accident-only, disease-specific or hospital-indemnity-only policies.

A “preexisting condition” means a physical or mental condition for which medical advice, medication, diagnosis, care or treatment was recommended for or received by an applicant for health insurance within six months before the effective date of coverage.

### **ADMINISTRATIVE IMPLICATIONS**

RMD is already in compliance with the provisions in the bill. None of the four plans offered have a permanent exclusion for a pre-existing condition and in the case where a temporary exclusion exists, it does not exceed six months in duration.

The New Mexico Medical Insurance Pool (NMMIP) plans offer coverage with a six-month wait period but with premium protections and a low-income program with reduced premiums for persons under 400% of the Federal Poverty Level. NMMIP plans are specifically designed to meet the health care needs of this population while reducing the cost of a traditional plan.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Companion to HB 109; Employer Pre-Tax Health Coverage Options  
Companion to HB 111; Health Insurer Direct Services Reimbursement

### **ALTERNATIVES**

HPC reports that a Department of Health and Human Services study on the effects of community rating and guaranteed issue reported two problems with the individual market: 1) high administrative loading resulting in high premiums for both high-risk and low-risk individuals; and, 2) the tax subsidy available to employment based insurance not available to individual market insurers. The authors recommended that policymakers consider making the incentives for obtaining individual versus group insurance neutral.

### **OTHER SUBSTANTIVE ISSUES**

HSD reports that evidence suggests women are paying more than men of the same age for individual insurance policies providing identical coverage. These additional costs are more than the actual costs of utilization of services by women.

Maine, Massachusetts, New Jersey, New York, and Vermont have “guaranteed issue” requirements for individual insurance providers. Insurers are prohibited from charging women more than men in these states. The National Women’s Law Center reports that of the 347 best-selling individual plans that use gender as a rating factor, only 6 percent include maternity coverage. The presence or absence of maternity coverage does not explain the variations in premiums.

HPC reports that from 2005 to 2007, 21.9 percent of New Mexicans did not have health insurance. New Mexico had the second highest rate of people without health insurance in the nation.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Certain individuals in New Mexico may be rejected when seeking market-based insurance policies. Persons rejected in the individual health insurance market may continue to have the state's high risk pool as their only option. Women in New Mexico may pay higher premiums than men.

AHO/mt