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SENATE BILL 393

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO HEALTH INSURANCE; ALLOWING A TAX CREDIT TO INSURERS  
ON THE LOW-INCOME PREMIUM SCHEDULE FOR NEW MEXICO MEDICAL  
INSURANCE POOL BENEFICIARIES; ELIMINATING ELIGIBILITY FOR THE  
NEW MEXICO MEDICAL INSURANCE POOL IF A PERSON BECOMES ELIGIBLE  
FOR MEDICARE OR MEDICAID.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-54-10 NMSA 1978 (being Laws 1987,  
Chapter 154, Section 10, as amended) is amended to read:

"59A-54-10. ASSESSMENTS. --

A. Following the close of each fiscal year, the  
pool administrator shall determine the net premium, being  
premiums less administrative expense allowances, the pool  
expenses and claim expense losses for the year, taking into  
account investment income and other appropriate gains and

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1 losses. The assessment for each insurer shall be determined by  
2 multiplying the total cost of pool operation by a fraction the  
3 numerator of which equals that insurer's premium and subscriber  
4 contract charges or their equivalent for health insurance  
5 written in the state during the preceding calendar year and the  
6 denominator of which equals the total of all premiums and  
7 subscriber contract charges written in the state; provided that  
8 premium income shall include receipts of medicaid managed care  
9 premiums but shall not include any payments by the secretary of  
10 health and human services pursuant to a contract issued under  
11 Section 1876 of the Social Security Act, as amended. The board  
12 may adopt other or additional methods of adjusting the formula  
13 to achieve equity of assessments among pool members, including  
14 assessment of health insurers and reinsurers based upon the  
15 number of persons they cover through primary, excess and stop-  
16 loss insurance in the state.

17 B. If assessments exceed actual losses and  
18 administrative expenses of the pool, the excess shall be held  
19 at interest and used by the board to offset future losses or to  
20 reduce pool premiums. As used in this subsection, "future  
21 losses" includes reserves for incurred but not reported claims.

22 C. The proportion of participation of each member  
23 in the pool shall be determined annually by the board based on  
24 annual statements and other reports deemed necessary by the  
25 board and filed with it by the member. Any deficit incurred by

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1 the pool shall be recouped by assessments apportioned among the  
2 members of the pool pursuant to the assessment formula provided  
3 by Subsection A of this section; provided that the assessment  
4 for any pool member shall be allowed as a thirty-percent credit  
5 on the premium tax return for that member and a fifty percent  
6 credit on the premium tax return for a member on the low-income  
7 premium schedule pursuant to Subsection B of Section 59A-54-19  
8 NMSA 1978.

9 D. The board may abate or defer, in whole or in  
10 part, the assessment of a member of the pool if, in the opinion  
11 of the board, payment of the assessment would endanger the  
12 ability of the member to fulfill its contractual obligation.  
13 In the event an assessment against a member of the pool is  
14 abated or deferred in whole or in part, the amount by which  
15 such assessment is abated or deferred may be assessed against  
16 the other members in a manner consistent with the basis for  
17 assessments set forth in Subsection A of this section. The  
18 member receiving the abatement or deferment shall remain liable  
19 to the pool for the deficiency for four years. "

20 Section 2. Section 59A-54-12 NMSA 1978 (being Laws 1987,  
21 Chapter 154, Section 12, as amended) is amended to read:

22 "59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

23 A. Except as provided in Subsection B of this  
24 section, a person is eligible for a pool policy only if on the  
25 effective date of coverage or renewal of coverage the person is

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1 a New Mexico resident, and:

2 (1) is not eligible as an insured or covered  
3 dependent for any health plan that provides coverage for  
4 comprehensive major medical or comprehensive physician and  
5 hospital services;

6 (2) is currently paying a rate for a health  
7 plan that is higher than one hundred twenty-five percent of the  
8 pool's standard rate;

9 (3) has been rejected for coverage for  
10 comprehensive major medical or comprehensive physician and  
11 hospital services;

12 (4) is only eligible for a health plan with a  
13 rider, waiver or restrictive provision for that particular  
14 individual based on a specific condition;

15 (5) has a medical condition that is listed on  
16 the pool's pre-qualifying conditions;

17 (6) has as of the date the individual seeks  
18 coverage from the pool an aggregate of eighteen or more months  
19 of creditable coverage, the most recent of which was under a  
20 group health plan, governmental plan or church plan as defined  
21 in Subsections P, N and D, respectively, of Section 59A-23E-2  
22 NMSA 1978, except, for the purposes of aggregating creditable  
23 coverage, a period of creditable coverage shall not be counted  
24 with respect to enrollment of an individual for coverage under  
25 the pool if, after that period and before the enrollment date,

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1 there was a sixty-three-day or longer period during all of  
2 which the individual was not covered under any creditable  
3 coverage; or

4 (7) is entitled to continuation coverage  
5 pursuant to Section 59A-23E-19 NMSA 1978.

6 B. Notwithstanding the provisions of Subsection A  
7 of this section:

8 (1) a person's eligibility for a policy issued  
9 under the Health Insurance Alliance Act shall not preclude a  
10 person from remaining on or purchasing a pool policy; provided  
11 that a self-employed person who qualifies for an approved  
12 health plan under the Health Insurance Alliance Act by using a  
13 dependent as the second employee may choose a pool policy in  
14 lieu of the health plan under that act; and

15 [~~(2) a pool policyholder shall be eligible for~~  
16 ~~renewal of pool coverage even though the policyholder became~~  
17 ~~eligible for medicare or medicaid coverage while covered under~~  
18 ~~a pool policy; and~~

19 ~~(3)] (2) if a pool policyholder becomes~~  
20 eligible for any group health plan, the policyholder's pool  
21 coverage shall not be involuntarily terminated until any  
22 preexisting condition period imposed on the policyholder by the  
23 plan has been exhausted.

24 C. Coverage under a pool policy is in excess of and  
25 shall not duplicate coverage under any other form of health

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1 insurance.

2 D. A policyholder's newborn child or newly adopted  
3 child is automatically eligible for thirty-one consecutive  
4 calendar days of coverage for an additional premium.

5 E. Except for a person eligible as provided in  
6 Paragraph (6) of Subsection A of this section, a pool policy  
7 may contain provisions under which coverage is excluded during  
8 a six-month period following the effective date of coverage as  
9 to a given individual for preexisting conditions.

10 F. The preexisting condition exclusions described  
11 in Subsection E of this section shall be waived to the extent  
12 to which similar exclusions have been satisfied under any prior  
13 health insurance coverage that was involuntarily terminated, if  
14 the application for pool coverage is made not later than  
15 thirty-one days following the involuntary termination. In that  
16 case, coverage in the pool shall be effective from the date on  
17 which the prior coverage was terminated. This subsection does  
18 not prohibit preexisting conditions coverage in a pool policy  
19 that is more favorable to the insured than that specified in  
20 this subsection.

21 G. An individual is not eligible for coverage by  
22 the pool if:

23 (1) except as provided in Subsection I of  
24 this section, the individual is, at the time of application,  
25 eligible for medicare or medicaid that would provide coverage

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1 for amounts in excess of limited policies such as dread  
2 disease, cancer policies or hospital indemnity policies;

3 (2) the individual has voluntarily terminated  
4 coverage by the pool within the past twelve months and did not  
5 have other continuous coverage during that time, except that  
6 this paragraph shall not apply to an applicant who is a  
7 federally defined eligible individual;

8 (3) the individual is an inmate of a public  
9 institution or is eligible for public programs for which  
10 medical care is provided;

11 (4) the individual is eligible for coverage  
12 under a group health plan;

13 (5) the individual has health insurance  
14 coverage as defined in Subsection R of Section 59A-23E-2 NMSA  
15 1978;

16 (6) the most recent coverages within the  
17 coverage period described in Paragraph (6) of Subsection A of  
18 this section were terminated as a result of nonpayment of  
19 premium or fraud; or

20 (7) the individual has been offered the  
21 option of continuation coverage under a federal COBRA  
22 continuation provision as defined in Subsection F of Section  
23 59A-23E-2 NMSA 1978 or under a similar state program and he  
24 has elected the coverage and did not exhaust the continuation  
25 coverage under the provision or program

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