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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/25/07

SPONSOR Sanchez, M. LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Health Insurance Regardless of Age SB 1116

ANALYST Earnest

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)

Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 1116 enacts a new section of the Insurance Code to limit insurance purchase eligibility rules of health insurers in the individual market. It also amends the Insurance Code to prohibit fraternal benefit societies from denying any contractual benefits, including health insurance benefits, solely on the basis of potential or probable risk.

Section 1 adds a guarantee that coverage must be offered in the individual market by prohibiting the establishment of eligibility rules based on age, gender, geographic area of the place of employment, smoking practices, individual's residence, health status, or occupational or industry classification.

Section 2 amends current law which allows fraternal benefits societies to impose rules regarding persons eligible for, or covered by, contractual benefits, including health insurance. The amendment would allow fraternal benefit societies to continue imposing these rules, as long as the benefit denial is not based solely upon potential or probable risk.

## SIGNIFICANT ISSUES

PRC indicates that insurers denying coverage are required to direct applicants to the state's high risk pool, the NM Medical Insurance Pool. Under provisions of this bill, insurers could not deny coverage but would still set rates that may be prohibitively expensive. According to PRC:

Under current New Mexico law, individuals who seek health insurance coverage in the individual market may be denied coverage on the basis of their age, health status and other factors. Also under current law, if denied coverage, the insurer must inform the individual that they may be eligible to purchase coverage through the state's high risk pool, the New Mexico Medical Insurance Pool.

While this measure would require that all individuals seeking insurance be offered coverage, insurers would still be free to price the coverage according to sound underwriting principles. While no individual would be denied an offer of coverage based on their age, health status, or other factors, the insurer could still consider all factors currently allowed under New Mexico law to determine the price of the coverage to be offered to the individual. As a result, it is unlikely that individuals who had previously been denied coverage and were directed to the high-risk pool will be able to find less costly coverage in the individual market.

Currently fraternal benefit societies may create rules regarding those persons who may be issued, or be covered by, contractual benefits, including health insurance. It is not clear whether the measure will change this practice significantly, since the societies will still be able to use factors such as age or health in determining eligibility for health coverage, as long as a denial of eligibility is not based *solely* upon potential or probably risk.

For those societies that already offer coverage to members and their dependents regardless of factors such as age and health status, this proposal should have little impact. To the extent that a society has restrictions on who may be covered, then the cost of coverage could be expected to increase according to the difference between present practice and the way in which the society interprets and implements the new legislative requirement. If such a revision results in a pool of members eligible for coverage that include older, less healthy persons than previously, the society may find that their younger and healthier members will begin to seek coverage elsewhere, including in the individual market. This would likely lead to further price increases in the following year and more member defections, resulting in a "death spiral" of increasingly higher prices and a population of only higher-risk members interested in the offered coverage.

## ADMINISTRATIVE IMPLICATIONS

None identified.

## OTHER SUBSTANTIVE ISSUES

According to PRC, New Mexico has a stable high risk pool for eligible individuals, including those who have been denied coverage in the individual market. Guaranteed issue in the individual market, as would be required in this bill, is generally found as a substitute measure in states without a stable high risk pool. It is also generally acknowledged that to provide not just

access but possibly a more affordable product for older, less healthy persons in the individual market requires that health insurance issuers be subject to community rating of premiums. The New Mexico legislature had previously considered and passed a community rating law, but the measure was repealed before it was enacted.

BE/nt