



Specific provisions of the bill include:

1. A 15 member Health Care Commission and its employees;
2. The adoption of a five year plan by the new commission which will:
  - emphasize preventive care, health care for rural, underserved areas, and inhome/community-based alternatives to institutional health care;
  - negotiate compensation methods for health care providers and health facilities;
  - establish capital budgets for health care facilities;
  - negotiate reciprocity agreements with other states;
  - develop claims and payment procedures;
  - provide for health care data collection and analysis to improve health care quality and control health care costs;
  - appoint a committee governing prescription drugs and medical devices;
  - study and report on impact of provider professional liability insurance on health care costs and access to health care;
  - provide for coverage of most physical, mental and behavioral health care services, dental services, long- term care, prescription drugs and medical supplies;
  - report annually to the legislature; and,
  - become effective contingent upon approval by the 2011 legislature, and if so approved, be implemented by July 1, 2012;
3. Granting the commission the authority to:
  - appoint a health care provider advisory board and a health facility advisory board;
  - establish health care delivery regions to differentiate fees and capital expense allocations to encourage health care in rural, underserved areas;
  - establish a comprehensive claims review procedure;
  - negotiate payment plans with providers and facilities;
  - establish a quality improvement program for providers and health facilities ;
  - negotiate annual operating budgets with health care facilities;
  - regulate major capital expenditures by health care providers and health care facilities (with certain exemptions);
  - establish a consumer, provider and health facility complaint process;
  - develop standard claims forms and a state-wide computer network for billing purposes and data collection;
  - require health care providers and health care facilities to participate in a statewide computerized system;
  - develop an annual budget to be within projected annual revenues; and
  - require health care providers and health care facilities to submit certain reports to aid the commission in an ongoing evaluation of the health security plan;
4. Provides for subrogation rights;
5. Prohibits the sale of private health care insurance in New Mexico to any eligible beneficiary after the date the health care plan is operating, except for supplemental benefits and certain retiree health care plans;
7. Requires the Superintendent of Insurance to ensure that workers' compensation and automobile insurance premiums on insurance policies written in New Mexico reflect a lower rate to account for the medical payment component to be assumed by the health security plan;
8. Requires educational institutions to provide coverage under the health security plan for nonresident students;

9. Requires the Legislative Finance Committee to determine financing options for the health security plan; and
10. Provides for a transition period for those covered by existing health care plans.

### **FISCAL IMPLICATIONS**

The plan attempts to put most New Mexicans under one risk pool as a way to leverage purchasing power and simplify the multiple-payor system of health insurance coverage; realize cost savings from the elimination of duplicative administration; and, protect the State and consumer from rising health care costs.

The bill requires the LFC to determine how to generate sufficient revenues for a self-sustaining health insurance program to cover all New Mexicans and to pay for the expenses of the commission and its administrative function. The bill does not provide the LFC an appropriation to support this activity. The LFC will also be required to submit a report with specific options and recommendations by December 15, 2009, to be considered by the 2010 Legislature. The LFC will most likely need additional time to provide a thorough report. Any report would not be complete without knowing the status of potential federal waiver applications and other agreements that may be necessary to enable the state to deposit federal payments or seek payments from Medicaid, Medicare or any other federal or insurance program for health care services. For this effort, LFC would also need to engage the full cooperation of HSD and have access to the department's data sources.

The plan will begin July 1, 2012 if approved by the 2010 Legislature, and during the fiscal year preceding that date, the commission will become operational with support of appropriations from the general fund. Beginning in FY13 private insurance will be replaced by the health security plan for those covered by the plan. The private health insurance industry currently pays premium taxes and premium tax surcharges which are revenues for the general fund. Those insurers who collect over \$3 billion dollars in premiums pay approximately \$120 million in premium taxes and premium tax surcharges. A substantial portion of those premium taxes could be eliminated.

The Health Coverage for New Mexicans Committee (HCNMC) was created by the Legislature and the Governor to study three models of universal health coverage. The HCNMC engaged Mathematica Policy Research, Inc. with costing out three different approaches to universal coverage in New Mexico. One of the models costed by Mathematica was based on the Health Security Act. Mathematica's report indicated that a universal coverage plan could be achieved at a savings in total cost over what we as New Mexicans currently spend on health care. Each of the reform models promised cost savings, but it remains unclear whether they included real cost controls.

According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

### **SIGNIFICANT ISSUES**

The bill will effectively subject all existing health care facilities and health care providers in New Mexico to state control. It will require mandatory participation in the health care plan by

most state residents other than persons covered by federal health plans, military personnel, and members of Indian tribes covered by federal health plans. It will prohibit the sale of health insurance in New Mexico for health care that is covered by the health security plan except for retiree health insurance plans that do not enter into contracts with the health security plan. The private sector would continue to provide the actual delivery of health care but will be required to comply with the rules of the commission and provisions of the health care plan.

The bill attempts to address health care costs that are reflected in other types of liability insurance. The theory of this section is that, since we have universal coverage, the premiums for these other liability coverage can be reduced because additional health coverage won't be needed. However, nothing in this bill removes an employer's liability under the worker's compensation act. Nor does this bill eliminate liability created by careless and reckless driving. State law would require the health care commission to recover damages from parties liable for their actions.

Any employer sponsored health insurance plans subject to ERISA are not required to participate. ERISA's original purpose was to regulate employee pension plans. ERISA also precludes state agencies and governments from regulating self-insured business insurance plans.

The commission would establish the state's health care budget, budgets for health care facilities and limits rate increases in the Consumer Price Index (CPI) rate. While this may appear to be a means of controlling health care costs, one potential negative consequence is a potential disincentive for providers to continue to do business in New Mexico if the budget established by the commission is not sufficient.

The bill requires the Superintendent of Insurance to ensure that worker's compensation and automobile insurance premiums on insurance policies reflect a lower rate to account for the medical payment component to be assumed by the health security plan.

A pharmaceutical formulary as proposed in the bill will require the commission to negotiate with manufacturers, which may conflict with the federal Medical Reform of 2004.

The commission will be charged with Vital Statistics. It is unclear how this would impact the existing Vital Statistics Bureau at DOH.

The bill requires the state's colleges and universities to assess students for health insurance through their fees. This may increase the costs of higher education in New Mexico even though many of students are dependents of NM state residents who will be covered by their parents' policy. Nonresident students apparently may opt out of the fees if they can show proof of out-of-state coverage.

## **ADMINISTRATIVE IMPLICATIONS**

The LFC will need to redirect staff and resources to meet its obligation to determine financing options for the plan.

Agencies report redistribution on an administrative and staffing level will occur as roles and responsibilities are repositioned to support the act.

The bill charges DOH with the responsibility of providing staff to the commission membership nominating committee, until a commission is appointed.

The multiple data collection efforts might be duplicative of powers and duties of existing state entities. The bill does not outline how existing entities will interact with the health security act.

### **OTHER SUBSTANTIVE ISSUES**

The commission may find it difficult to bring in certain insured persons or groups accustomed to a certain level of benefit coverage if the state's coverage provided is less.

Socioeconomic disparities exist with respect to access to health care. In 2005, 20.4% of New Mexicans were without health insurance, compared to 15.9% for the US. According to the HPC's *Universal Health Coverage – Research on States and Unsolved Issues* Report published in August 2007, various states have addressed universal health care.

Persons eager for insurance reform believe New Mexico's reliance on private insurers may make universal coverage unaffordable in today's market.

Eight-eight percent of small employers in New Mexico employ less than 20 employees; 41% of those do not offer health insurance. Eight-one percent of the small employers that do not currently provide coverage cite cost as the primary reason and 67% of uninsured individuals say it is affordability.

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

There will be no new statewide health care commission to oversee a new health care system in New Mexico through this bill.

AHO/mt