

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/10

SPONSOR Salazar LAST UPDATED _____ HB 216

SHORT TITLE Medical Insurance Pool High-Risk Pools SB _____

ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	Indeterminate, see fiscal note below	Indeterminate, see fiscal note below	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Health Policy Commission (HPC)

New Mexico Medical Insurance Pool (NMMIP)

SUMMARY

Synopsis of Bill

House Bill 216 proposes to enact a new section to the Medical Insurance Pool Act providing the New Mexico Medical Insurance Pool (NMMIP) board of directors the authority to create health plans and eligibility criteria that would make it possible for “eligible individuals” under federal programs to purchase health insurance coverage through the state’s high-risk pool.

The new section would allow the NMMIP to establish eligibility and coverage criteria, set cost-sharing amounts payable by an enrollee, and participate with and receive funds from a federal agency designated to administer coverage programs for state high-risk pools.

FISCAL IMPLICATIONS

There is no known direct fiscal impact of enacting this legislation; however, by expanding the authority of the NMMIP board of directors, actions of the board may increase assessments to insurers. These insurers are provided a tax credit against assessments. Any increase in assessments could increase the tax credit which would reduce distributions to the general fund; however, the opposite is true too, there could be an increase in distribution to the general fund.

Additionally, by increasing the authority of the board directors the Legislature may be indirectly earmarking, giving away, or delegating appropriation authority over expenditures and thereby reducing the ability of the Legislature to establish spending and policy priorities.

Recent bills in Congress include provisions to help fund state high-risk pools, such as the NMMIP. While there may be a “maintenance of effort” attached to receipt of federal funds, the funds may allow the NMMIP to continue to expand without expenditure of additional state funds. However, the federal proposals describe high-risk pools with characteristics that do not exactly match those outlined currently enacted in New Mexico.

The bill would provide the NMMIP board of directors with the ability to adapt to the proposed new federal requirements regarding expanded eligibility and plan design. Expanding the authority of the board would present a better opportunity to take advantage of federal grants, funding and tax advantages, and quickly establish additional eligibility categories, plan designs, and cost-sharing arrangements.

Furthermore, should a Federal program be enacted, as currently proposed, individuals without previous health insurance would not have to wait 6 months for coverage of pre-existing conditions, as is current policy. Thus, individuals with health conditions and no insurance would potentially enroll in the NMMIP and have insurance coverage, thereby decreasing the amount of uncompensated care being provided.

SIGNIFICANT ISSUES

The NMMIP is a non-profit entity, legislatively created in 1987 and governed by a Board of Directors. Eligibility for enrollment is defined in statute and requires an individual to:

- Be a resident of New Mexico, and
- Have a qualifying medical condition, or
- Be denied comprehensive coverage, or
- Have, or be offered, coverage with a rider/exclusion due to a pre-existing condition or with a premium above the Pool’s qualifying rate, or
- Involuntarily lose group coverage after 18 months of continuous coverage, and
- Not be eligible for group insurance, Medicaid or Medicare

NMMIP enrollment, as of Dec 31, 2009, was 7,758.

Federal health reform proposals to date include a component establishing a temporary national high-risk pool program, which may be operated through qualified state high-risk pools. Both the Senate and House bills include a \$5 billion appropriation for the national program to fund losses. However, the criteria specified in each piece of legislation, while largely consistent

with current State law, do not track exactly with the Medical Insurance Pool Act. While the Pool Board of Directors has existing authority to design the benefit plan, establish premiums and cost sharing mechanisms, it does not have the authority or discretion to establish and offer a health plan with different eligibility criteria. Thus, in order to assure the New Mexico high-risk pool's ability to participate in federal reform initiatives, should it come to pass, the Pool's Board of Directors requires the authority to establish a program pursuant to Federal law.

In the "Other Substantive Issues" section is a side-by-side comparison of both Congressional bills and the NMMIP clarifying the differences between New Mexico's existing program and current proposals.

PERFORMANCE IMPLICATIONS

According to NMMIP, if a federal high-risk pool program should come to pass and New Mexico is able to directly participate, it is anticipated that enrollment in the Pool will significantly increase and have a positive impact on the number of uninsured in New Mexico.

ADMINISTRATIVE IMPLICATIONS

If the federal legislation is enacted, a Federal high-risk pool program should come to pass that is not consistent with current State law, the NMMIP Board of Directors, should it choose to participate, will need to establish a health plan program pursuant to Federal law regarding eligibility criteria and which may or may not differ somewhat in benefit design, premium structure and cost sharing mechanisms. Once Federal guidelines are obtained, it is anticipated that a program could be in place and begin enrollment within 90 days. The Pool has the administrative capacity to establish and implement an additional high-risk pool health plan program such as what is currently being contemplated.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill may conflict with HB96, HB31, and HB32. These bills could potentially reduce or eliminate the need for NMMIP.

TECHNICAL ISSUES

In addition to possible future federal legislation, the NMMIP is also unable to act to take advantage of a current federal program. The NMMIP cannot currently apply to the Superintendent of Insurance to become a "state qualified health plan" ("SQHP") under a federal program called the Health Care Tax Credit, because of restrictive eligibility criteria in the Act. Twenty other state high-risk pools are SQHPs and are able to offer plans to individuals who are eligible for an 80% federal tax credit. This tax credit is available to individuals who have lost their jobs or have reduced hours in industries affected by international trade agreements (NAFTA, e.g.). New Mexico currently has over a dozen companies certified as affected by these agreements. The tax credit is also available to certain involuntary early retirees who purchase health care coverage (persons who worked for firms that are no longer in business, but which had contributed to the Pension Benefit Guaranty Corporation).

OTHER SUBSTANTIVE ISSUES

The Health Policy Commission reports:

The Kaiser Commission on Medicaid and the Uninsured, high-risk pools operate in 34 states and provide health insurance to nearly 200,000 U.S. residents. Although high-risk pools have existed since 1976, they have received little national attention until recently. Health reform legislation passed in the House of Representatives and in the Senate creates a temporary national high-risk pool program to provide health coverage to people prior to the implementation of other coverage expansions included in the bills. As the national health reform debate continues, high-risk pools represent one strategy for providing coverage to people with pre-existing medical conditions.

State high-risk pools are costly to operate, primarily because they serve a high health-risk population that utilizes a greater number of services. In 2008, over \$2.01 billion was spent on 199,020 high-risk pool enrollees nationwide. According to the National Association of State Comprehensive Health Insurance Plans (NASCHIP), the average health care claim cost per risk-pool participant was approximately \$8,650 per year (\$720/month) in 2007.

According to the Government Accountability Office, the average claim cost per enrollee was \$9,437 in 2008. These average claim costs exceed the 2006 Medicare per enrollee claim cost of \$8,304. Unlike in other insurance markets, premiums paid by enrollees do not come close to covering all of the costs of state high-risk pools. In 2008, the premiums that were collected covered at least 50 percent of total program costs in 23 states. However, it ranged from 24 percent of total costs in New Mexico to 106 percent in West Virginia.

Because premiums do not cover all of the operating costs, states must raise additional funds from other sources. These funding sources vary by state but generally include assessments on insurance companies, general revenues, and designated funds. Twenty-seven high-risk pools assess health insurers and Health Maintenance Organizations for at least a portion of their funding. Some states fund their high-risk pool using income taxes, premium taxes, or state tobacco settlement funds. Two states, Maryland and West Virginia, have an assessment on hospitals.

The first federal grant program for state high-risk pools was established in the Trade Adjustment and Assistance Act of 2002. In February 2006, former President Bush extended and expanded this program by signing the State High-Risk Pool Funding Extension Act of 2006. The legislation authorized \$75 million for fiscal year 2006 through fiscal year 2010. Of this total funding, \$50 million is divided among high-risk pools based on a distribution formula. A portion of the funding is distributed equally among the high-risk pool programs, and the remaining funding is allocated based on state rankings of the number of uninsured people per state and the number of enrollees that were in each state high-risk pool during the previous year. The remaining \$25 million is used as bonus grants for states to support various program components including: expanding eligibility, reducing premiums and cost-sharing, and for premium subsidy programs for the low-income population. In order to be eligible for a CMS grant, state high-risk pools must follow one of the two models in the NAIC

Model Health Plan for Uninsurable Individuals Act. The program is administered by the Centers for Medicare and Medicaid Services (CMS) Center for Medicaid and State Operations.

(Source: <http://www.kff.org/uninsured/upload/8041.pdf>)

The U.S. Census Bureau reports that in 2008, 23.7% of New Mexican’s were uninsured. The State’s uninsured rate was above the national rate of 15.4%. New Mexico had the second highest uninsured rate in the nation preceded only by Texas at 24.4% using a three-year average from 2006 to 2008.

(Source: <http://www.census.gov/hhes/www/hlthins/hlthin08/statecomp08.xls>)

In 2008, New Mexico’s insured population was insured under the following types of coverage:

- Private Health Insurance
 - Employment Based - 46.6%
 - Direct Purchase - 7.5%
- Government Health Insurance
 - Medicaid - 16.4%
 - Medicare - 14.3%
- Military Health Care - 6.3%

(Source: <http://www.census.gov/hhes/www/hlthins/historic/hihist4.xls>)

TEMPORARY NATIONAL HIGH RISK POOL PROGRAM

SIDE-BY-SIDE COMPARISON WITH NEW MEXICO

FEATURE	New Mexico (59A-54-1) Medical Insurance Pool Act	SENATE (H.R. 3590) Patient Protection and Affordable Care Act	HOUSE (H.R. 3962) Affordable Health Care for America Act
Effective Dates	Enacted 1987	90 days after enacted until January 1, 2014	Immediate until “Exchange” is established
Operating Entity	Independent Non-profit Statutory Governing Board	HHS directly or via eligible entity: <ul style="list-style-type: none"> • State or non-profit “Qualified High Risk Pool” 	HHS directly or via State High Risk Pools
Maintenance of Effort	Funding Mechanisms: <ul style="list-style-type: none"> • NO State appropriations • Premiums • Assessment of losses to health insurance carriers ** Carriers receive Premium Tax Credit	State shall not reduce amount State expended in previous year for operation of State high risk pool	<ul style="list-style-type: none"> • State shall make annual payment equal to funding made by State for high risk pool coverage for year ending 7/1/09 • Shall maintain Assessment of Losses to insurance carriers
Pre-Existing Conditions	<ul style="list-style-type: none"> • No pre-existing condition exclusion • Up to 6-month waiting period if no previous coverage or voluntarily terminated coverage 	<ul style="list-style-type: none"> • No pre-existing condition exclusion • No waiting period for coverage 	<ul style="list-style-type: none"> • No pre-existing condition exclusion • No waiting period for coverage
Eligible	<ul style="list-style-type: none"> • Resident, with: 	<ul style="list-style-type: none"> • Citizen, National or Legal 	<ul style="list-style-type: none"> • Resident, with:

FEATURE	New Mexico (59A-54-1) Medical Insurance Pool Act	SENATE (H.R. 3590) Patient Protection and Affordable Care Act	HOUSE (H.R. 3962) Affordable Health Care for America Act
Individual	<ul style="list-style-type: none"> Qualifying medical condition, or Denied coverage, or Coverage with rider, or Premium above qualifying rate, or HIPAA-eligible (<i>involuntary loss of group coverage after 18 months</i>) AND not eligible for comprehensive Group coverage, Medicaid or Medicare 	<ul style="list-style-type: none"> Alien No creditable coverage for 6 months prior to application, and Has a pre-existing condition 	<ul style="list-style-type: none"> Qualifying medical condition, or Denied coverage, or Coverage with rider, or Premium above qualifying rate AND not eligible for employer coverage, Medicaid or Medicare Spouse, dependent of eligible person OR has had no health insurance coverage for 6 months
Premium Rates	<ul style="list-style-type: none"> 125% of Standard Risk Rate Male/Female differential Age – rates vary up to 3.1 to 1 	<ul style="list-style-type: none"> 100% of Standard Risk Rate NO male/female differential Age – rates may vary up to 4 to 1 	<ul style="list-style-type: none"> 125% of Standard Risk Rate NO male/female differential Age – rates may vary up to 2 to 1
Low Income Premium Subsidy	75% discount below 200% poverty 50% discount below 300% poverty 25% discount below 400% poverty	None	None
Deductible & Co-Pay	\$500 - \$10,000 (<i>6 options to choose from</i>) 20% co-pay (0% co-pay on high deduct plans)	Not specified	Deductible up to \$1,500 for individual Co-Pay not specified
Lifetime Limit	NO annual or lifetime maximum limit <i>Annual limits on some benefits</i> <i>Lifetime limit of \$5 M for transplants</i>	Not specified	NO annual or lifetime maximum limit
Out-of-Pocket Limit	For \$500 deductible: \$2,500 individual ~ \$5,000 family (3+) For \$1,000 deductible: \$3,000 individual ~ \$7,000 family (3+) For \$2,000 deductible \$5,000 individual ~ \$10,000 family (3+)	\$5,950 for individual \$11,900 for family	\$5,000 for individual
Benefits	Comprehensive coverage: <ul style="list-style-type: none"> Hospitalization Outpatient services Diagnostic services Ambulance, ER Professional services Prescription drugs Therapy & Rehabilitative services Mental health & 	Not specified	“Essential Benefits Package”: <ul style="list-style-type: none"> Hospitalization, including incidental services, equipment & supplies Outpatient services Professional services Prescription drugs Rehabilitative services

FEATURE	New Mexico (59A-54-1) Medical Insurance Pool Act	SENATE (H.R. 3590) Patient Protection and Affordable Care Act	HOUSE (H.R. 3962) Affordable Health Care for America Act
	substance abuse <ul style="list-style-type: none"> • Adult Wellness & Preventive services • Maternity care, elective termination • Well-baby & well-child services • DME, prosthetics, orthotics, equipment, supplies • Autism services • Home health, hospice, SNF • Transplants 		<ul style="list-style-type: none"> • Mental health & substance abuse • Preventive services • Maternity care • Well-baby & well-child services • DME, prosthetics, orthotics
Other Provisions	<ul style="list-style-type: none"> • “Dumping” prohibited • Appeals process • Also offer Medicare Supplemental Plan for under age 65 w/ disability • Board of Directors’ power and authority defined • Mechanism for Assessment and Premium Tax Credit defined 	<ul style="list-style-type: none"> • Protections against insurers or employers “dumping” (encouraging person with health condition to dis-enroll from previous coverage) • Appeals process • Protections against waste, fraud & abuse • Procedures for transition of national high risk pool enrollees to Exchange 	<ul style="list-style-type: none"> • Protections against insurers or employers “dumping” (encouraging person with health condition to dis-enroll from previous coverage) • Appeals process • Protections against waste, fraud & abuse • Procedures for transition of national high risk pool enrollees to Exchange
Federal Funding	Has been \$50-75 M annual (nationally) New Mexico ~ \$750K to \$1.2M annual	\$5 billion total for national program	\$5 billion total for national program

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The NMMIP will continue to operate without the authority and flexibility to add eligibility categories and additional plans. As a result, the Pool may find that though it may want to offer coverage to additional persons and to take advantage of federal funding, tax credits, and other tax advantages, it will be unable to do so.

DL/mew