

HOUSE BILL 423

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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and Christine Chandler

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HEALTH COVERAGE; AMENDING SECTIONS OF THE GROUP BENEFITS ACT TO PROVIDE FOR PARTICIPATION BY CERTAIN NONPROFIT ENTITIES.

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

SECTION 1. Section 10-7B-2 NMSA 1978 (being Laws 1989, Chapter 231, Section 2, as amended) is amended to read:

"10-7B-2. DEFINITIONS.--As used in the Group Benefits Act:

A. "committee" means the group benefits committee;

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B. "director" means the director of the risk management division of the general services department;

C. "eligible nonprofit entity" means an entity that:

(1) has as its principal purpose the provision of services for the care and maintenance of sick or indigent persons;

(2) has its principal place of business in New Mexico;

(3) employs HCEDC→, on a full-time, part-time or temporary basis,←HCEDC an average of at least fifty-one persons over a twelve-month period; and

(4) by the date set by the director for providing written notice of participation pursuant to Subsection F of Section 10-7B-6 NMSA 1978, provides the director written evidence of the following:

(a) designation as a nonprofit entity pursuant to Section 501(c)(3) of the federal Internal Revenue Code of 1986; HCEDC→and←HCEDC

(b) at least fifty percent of the entity's annual receipts for the previous three years were derived from the state or from federal or local government funds; HCEDC→and←HCEDC

HCEDC→(c) that the principal purpose of the entity is the provision of services for the care and

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maintenance of sick or indigent persons;←HCEDC

[G.] D. "employee" means a salaried officer, employee or legislator of the state; a salaried officer or an employee of a local public body; or an elected or appointed supervisor of a soil and water conservation district;

HCEDC→**E. "indigent person" means a person who is a member of a household that has a gross income of less than two hundred percent of the level of income that defines poverty by household size as published annually in the federal register by the United States department of health and human services;**←HCEDC

[D.] HCEDC→**E. F.**←HCEDC "local public body" means any New Mexico incorporated municipality, county or school district;

[E.] HCEDC→**F. G.**←HCEDC "professional claims administrator" means any person or legal entity that has at least five years of experience handling group benefits claims, as well as such other qualifications as the director may determine from time to time with the committee's advice;

[F.] HCEDC→**G. H.**←HCEDC "small employer" means a person having for-profit or nonprofit status that employs an average of fifty or fewer persons over a twelve-month period; and

[G.] HCEDC→**H. I.**←HCEDC "state" or "state agency" means the state of New Mexico or any of its branches, agencies,

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departments, boards, instrumentalities or institutions."

SECTION 2. Section 10-7B-6 NMSA 1978 (being Laws 1989, Chapter 231, Section 6, as amended) is amended to read:

"10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION--ELIGIBLE NONPROFIT ENTITY PARTICIPATION.--

A. The risk management division of the general services department may, with the prior advice of the committee, establish and administer a group benefits self-insurance plan, providing life, vision, health, dental and disability coverages, or any combination of such coverages, for employees of the state, [~~and of~~] participating local public bodies and participating eligible nonprofit entities. Any such group benefits self-insurance plan shall afford coverage for employees' dependents at each employee's option. Any such group benefits self-insurance plan may consist of self-insurance or a combination of self-insurance and insurance; provided that particular coverages or risks may be fully insured, fully self-insured or partially insured and partially self-insured.

B. The director, with the advice of the committee, shall establish by regulation or letter of administration the types, extent, nature and description of coverages, the eligibility rules for participation, the deductibles, rates and all other matters reasonably necessary to carry on or

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administer a group benefits self-insurance plan established pursuant to Subsection A of this section.

C. The contribution of each participating state agency to the cost of any such group benefits self-insurance plan shall not exceed that percentage provided for state group benefits insurance plans as provided by law. The contribution of a participating local public body to the cost of any such group benefits self-insurance plan shall not exceed that percentage provided for local public body group benefits insurance plans as provided by law. The contribution of a participating eligible nonprofit entity to the cost of any such group benefits self-insurance plan shall not exceed that percentage provided for eligible nonprofit entity group benefits insurance plans as provided by law.

D. Except as provided in Subsection E of this section, public employees' contributions to the cost of any group benefits self-insurance plan may be deducted from their salaries and paid directly to the group self-insurance fund; provided that where risks are insured or reinsured, the director may authorize payment of the costs of such insurance or reinsurance directly to the insurer or reinsurer.

E. A legislator and the legislator's covered dependents and a soil and water conservation district supervisor [ø#] and the supervisor's covered dependents are eligible to participate in and receive benefits from the group

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benefits self-insurance plan if the legislator or supervisor pays monthly premiums in amounts that equal one hundred percent of the cost of the insurance. The premiums shall be paid directly to the group self-insurance fund; provided that where risks are insured or reinsured, the director may authorize payment of the premiums directly to the insurer or reinsurer.

F. Local public bodies, eligible nonprofit entities and state agencies that are not participating in the state group benefits insurance plan or self-insurance plan may elect to participate in any group benefits self-insurance plan established pursuant to Subsection A of this section by giving written notice to the director on a date set by the director, which date shall not be later than ninety days prior to the date participation is to begin. The director shall determine an initial rate for the electing entity in accordance with a letter of administration setting forth written guidelines established by the director with the committee's advice. The initial rate shall be based on the claims experience of the electing entity's group for the three immediately preceding continuous years. If three years of continuous experience [~~is~~] are not available, a rate fixed for the entity by the director with the committee's advice shall apply, and the electing entity's group shall be rerated on the first premium anniversary following the date one full year of experience for the group becomes available. Any such election may be

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terminated effective not earlier than June 30 of the third calendar year succeeding the year in which the election became effective or on any June 30 thereafter. Notice of termination shall be made in writing to the director not later than April 1 immediately preceding the June 30 on which participation will terminate. A reelection to participate in the plan following a termination [~~may~~] shall not be made effective for at least three full years following the effective date of termination.

G. As soon as practicable, the director with the committee's advice shall establish an experience rating plan for state agencies, [~~and~~] local public bodies and eligible nonprofit entities participating in any group benefits self-insurance plan created pursuant to Subsection A of this section. Rates applicable to state agencies, [~~and~~] participating local public bodies and participating eligible nonprofit entities shall be based on [~~such~~] the experience rating plan. [~~Any such~~] An experience rating plan may provide separate rates for individual state agencies, [~~and~~] individual local public bodies and individual eligible nonprofit entities or for [~~such other~~] the experience centers [~~as~~] the director [~~may determine~~] determines.

H. The risk management division of the general services department may establish a reasonable fee to cover the costs of administering group benefits to eligible nonprofit entities."

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SECTION 3. Section 10-7B-7 NMSA 1978 (being Laws 1989, Chapter 231, Section 7) is amended to read:

"10-7B-7. GROUP SELF-INSURANCE FUND CREATED.--

A. The "group self-insurance fund" is created. The fund and any income produced by the fund shall be held in trust for the benefit of participating state agencies and their employees, ~~and~~ local public bodies and their employees and eligible nonprofit entities and their employees, deposited in a segregated account and invested by the director with the advice of the committee. Money in the fund shall be used solely for the purposes of the fund and shall not be used to pay any general or special obligation or debt of the state, other than as authorized by this section. Balances in the fund in excess of amounts needed for the purposes of the fund shall not be used to pay dividends or refunds, however described, to individual public employees or their dependents or to eligible nonprofit entities or their employees, but may be used, in the director's discretion, to reduce future contributions, to provide additional benefits or as a reserve to stabilize premiums.

B. The fund shall consist of money appropriated to the fund, income from investment of the fund, employers' contributions, employees' contributions, eligible nonprofit entities' contributions, insurance or reinsurance proceeds and other funds received by gift, grant, bequest or otherwise for

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deposit in the fund, including [~~but not limited to~~] refunds of amounts from prior state group life, vision, dental, health and disability insurance plans, all of which are hereby appropriated to and for the purposes of the fund.

C. Disbursements from the fund shall be made by warrant signed by the secretary of finance and administration upon vouchers signed by the director. Lump sum disbursements from the fund may be advanced, in the manner described in this subsection, to a professional claims administrator to be used to pay benefits. Such lump sum disbursements may be made not more than weekly in advance. The professional claims administrator shall keep any such lump sum advance in a segregated account and shall hold the advance in trust for the benefit of participating employees. On or before the last day of each month, the professional claims administrator shall prepare a request for replenishment of the lump sum disbursement in the amount actually paid out for benefits during the month. Not more than thirty days after the last day of each month, the professional claims administrator shall make and submit to the director a detailed report of expenditures of any such lump sum advance during the month.

D. Money in the fund may be used by and is hereby appropriated to the risk management division of the general services department:

- (1) to purchase life, vision, health, dental

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and disability insurance, or any combination of these, for state and local public body employees and eligible nonprofit entity employees participating in the group self-insurance plan and their covered dependents, from an insurance company determined to be the best responsible bidder, as defined in the Procurement Code, after:

(a) requesting sealed proposals from three or more insurance agents licensed in New Mexico; or

(b) requesting sealed proposals in accordance with the provisions of the Procurement Code;

(2) to contract with and pay one or more professional claims administrators;

(3) to contract with and pay private attorneys or law firms for advice and for defense of contested claims determinations;

(4) to contract with and pay qualified independent actuaries, financial auditors and claims management and procedures auditors;

(5) to contract with and pay consultants, financial advisors and investment advisors for independent consulting and advice;

(6) to pay reasonable investment commissions and expenses;

(7) to make lump sum advances to any person or firm acting as a professional claims administrator, such

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advances to be used exclusively to pay benefits to participating employees;

(8) to pay benefits to or for participating employees and their dependents;

(9) to pay any other costs and expenses incurred in carrying out this section; and

(10) as otherwise provided by law.

E. The fund shall be maintained in actuarially sound condition as evidenced by the annual written certification of an actuary qualified for such work that, as of June 30 of the current year, the fund was actuarially sound.

F. Annually on or before January 15, the director shall submit to the legislature a report on any group self-insurance plan created pursuant to Subsection A of Section [5 of the Group Benefits Act] 10-7B-6 NMSA 1978, a financial audit of the fund and a claims management and procedures audit by a qualified claims auditor for the one-year period ending on June 30 immediately preceding the report. With respect to claims files, the claims audit may, in the director's discretion, be limited to a random sampling."