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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 02/01/2024

Bill No: SB 179

Sponsor: Senator Martin Hickey
Short Title: HMOs in Life and Health Insurance Guaranty

Agency Name and Code Number: Office of Superintendent of Insurance - 440
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 181
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This legislation amends the Life and Health Insurance Guaranty Association Act based on a current version of a model act developed by the National Association of Insurance Commissioners (NAIC). Key changes include:

- Expanding membership and coverage to include HMOs and their subscribers and providers,
- Changing the method for assessing Long Term Care Insurer insolvencies,
- Increasing the number of permissible members to the board of directors, and
- Repealing a section of the HMO act related to replacement coverage in the event of an insolvency.

Section 1 - Amends the definitions section in NMSA 1978, §59A-42-3 as follows:

- 1) creates a new definition for “health benefit plan,”
- 2) adds HMOs to the definition of “member insurer” and
- 3) creates a new definition for “structured settlement factoring transaction.”

Section 2 - Amends NMSA 1978, §59A-42-4 COVERAGE-LIMITATIONS as follows:

- 1) adds health care providers rendering services to the list of covered persons,
- 2) excludes factored transactions (structured settlement annuities that had been sold by the original annuitant) from coverage and
- 3) excludes Medicaid from coverage.

Section 3 - Makes minor amendments to NMSA 1978, §59A-42-5 ORGANIZATION OF ASSOCIATION-PARTICIPATION relating to adding HMOs as members of the association.

Section 4 - Amends NMSA 1978, §59A-42-6 BOARD OF DIRECTORS to increase the number of permissible elected board members by two.

Section 5 - Amends NMSA 1978, §59A-42-7 POWERS AND DUTIES OF THE ASSOCIATION as follows:

- 1) clarifies that the association has the authority to reissue contracts if appropriate and
- 2) makes numerous edits related to adding HMOs as members.

Section 6 - Amends NMSA 1978, §59A-42-8 ASSESSMENTS as follows:

- 1) eliminates the limit of \$300 on non-pro rata Class A assessments and

2) changes Class B assessment for Long Term Care Insurance from 100% support by the health insurance industry to 50% life insurance industry and 50% health insurance industry.

Sections 7 through 10 – Amends NMSA 1978, §59A-42-10, 59A-42-11, 59A-42-13 and 59A-42-17 to make minor edits to recognize that HMOs have been added as members of the Association. Section 11 - Repeals NMSA 1978, §59A-46-15 ENROLLMENT PERIOD; REPLACEMENT COVERAGE IN THE EVENT OF INSOLVENCY. This section provides that the Superintendent oversees a process of moving the members of the insolvent insurer to coverage with another solvent HMO. Since HMOs will be members of the association their members will be covered by the Guaranty Association and this process will not be necessary.

FISCAL IMPLICATIONS

Any fiscal implications of the proposed bill would likely be positive for the State. As set forth below, the inclusion of HMOs in the Guaranty Association will reduce the administrative burden on the Office of the Superintendent of Insurance, potentially resulting in savings.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

This bill has the potential to reduce the administrative burden on the Superintendent who currently is fully responsible for finding replacement insurance for members of an insolvent HMO on OSI. As noted above, the bill would repeal this Section, because adding HMOs to the Guaranty Association would render it unnecessary.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The exclusions from the definition of “member insurer” were changed to eliminate HMOs, so HMOs are now covered under the Guaranty Association. However, “health care plan, whether profit or nonprofit” remain on the list of exclusions. However, a “health care plan,” as defined by NMSA 59A-47-3(J), must be a 501(c)(3) organization, so it must be a non-profit. Thus, the “whether profit or nonprofit” language is unnecessary and may result in an overly broad interpretation of the exclusion.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HMOs will continue to be exempt from participating in the Guarantee Association.

AMENDMENTS

None.