FISCAL IMPACT REPORT

SPONSOR Hickey **LAST UPDATED**
ORIGINAL DATE 1/31/2024
SHORT TITLE Life and Health Insurance Guaranty Act Changes **BILL NUMBER** Senate Bill 179
ANALYST Rodriguez/J. Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
				No fiscal impact		

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Duplicates House Bill 181

Sources of Information

LFC Files

Agency Analysis Received From
Health Care Authority (HCA)
Office of Superintendent of Insurance (OSI)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 179

Senate Bill 179 (SB179) amends the Life and Health Insurance Guaranty Association Act (Article 42 of the Insurance Code), which protects life and health insurance policyholders if their insurer becomes insolvent. This bill expands membership and coverage to include health maintenance organizations (HMOs) and their subscribers and providers; changes the method for assessing long-term care insurer insolvencies; increases the number of directors; adds rate-increase powers; and repeals an HMO section regarding replacement coverage for insolvency.

The bill includes a definition of "health benefit plan", which reads as follows:

> any hospital or medical expense policy or certificate or health maintenance organization subscriber contract or any other similar health contract. "Health benefit plan" does not include: (1) accident-only insurance; (2) credit insurance; (3) dental-only insurance; (4) vision-only insurance; (5) Medicare supplement insurance; (6) benefits for long-term care, home health care, community-based care or any combination thereof; (7) disability income insurance; (8) coverage for on-site medical clinics; or (9) specified disease,

> hospital confinement indemnity or limited benefit health insurance if the health benefit plans do not provide coordination of benefits and are provided under separate policies or contracts.

This bill also defines "structured settlement factoring transaction" as a transfer of structured settlement payment rights, including portions of structured settlement payments made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation.

Section 2 of the bill expands coverage to individuals who are the beneficiaries, assignees, or payees, including health care providers rendering services covered under health insurance policies or certificates. Section 2 also changes the act so that coverage excludes factored transactions, or a person who acquires rights to receive payments through a structured settlement factoring transaction. It also excludes Medicaid from coverage.

Section 3 amends participation in the association to include all insurers as a condition of their authority to transact insurance or if they are a health maintenance organization.

Section 4 increases the board of directors of the association by two to consist of seven and no more than 11 board members.

Section 5 amends the powers and duties of the association and allows the association to file for an actuarially justified rate or premium increase for a policy or contract for which it provides coverage under the act.

Section 6 amends assessments and removes language so that non-pro rata Class A assessments can't exceed $300 per member insurer. It also adds language so that Class B assessments for long-term care insurance written by insolvent insurers are allocated 50 percent to accident and health member insurers and fifty percent to life and annuity member insurers.

This bill also repeals Section 549-46-15 (Laws 1993, Chapter 266, Section 15), which directed coverage in the event of an insolvency of a health maintenance organization.

As noted, there are several modifications to the existing bill and statute.

The effective date of this bill is January 1, 2025.

FISCAL IMPLICATIONS

OSI writes:

> 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

The New Mexico Life Insurance Guaranty Association was created by the New Mexico

legislature in 1978 to protect state residents who are policyholders and beneficiaries of policies issued by an insolvent insurance company, up to specified limits outlined in the act. Insurance companies, currently excluding health maintenance organizations, licensed to write life and health insurance in New Mexico are required to be members of the association. The association is not governed by the Office of Superintendent of Insurance but works closely with the agency.

The association receives no state funds as its work is financed by assessment of the insurers. There are two classes of assessment—class A assessments and class B assessments. Class A assessments are authorized for the purpose of meeting administrative and legal costs and can be authorized whether or not it's related to a particular insolvent insurer. Class B assessments are authorized with regard to an impaired or insolvent insurer. If a member company becomes insolvent, money to continue coverage and pay claims is obtained through assessments of the association's other member insurers.

When the association was formed in 1978, there were few managed care organizations in New Mexico and, therefore, were excluded in the act. Managed care organizations are now a much larger part of the health insurance marketplace.

ADMINISTRATIVE IMPLICATIONS

OSI notes that this bill may reduce the administrative burden for the agency. OSI writes:

> This bill has the potential to reduce the administrative burden on the Superintendent who currently is fully responsible for finding replacement insurance for the members of an insolvent HMO. . . [T]he bill would repeal this [Section 59A-46-15, which currently directs coverage in the event of an insolvency of a health maintenance organization,] because adding HMOs to the Guaranty Association would render it unnecessary.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates House Bill 181.

TECHNICAL ISSUES

OSI indicates that this bill keeps "health care plan, whether profit or nonprofit" on the list of exclusions for member insurers which is unnecessary language. OSI writes:

> 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.

JR/JT/rl/cf/al