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SENATE BILL 564

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Joseph A. Fidel

AN ACT

RELATING TO INSURANCE; AMENDING A CERTAIN SECTION OF THE HEALTH INSURANCE ALLIANCE ACT; PROVIDING FOR ASSESSMENTS.

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

Section 1. Section 59A-56-11 NMSA 1978 (being Laws 1994, Chapter 75, Section 11, as amended) is amended to read:

"59A-56-11. ASSESSMENTS. - -

A. After the completion of each calendar year, the alliance shall assess all its members for the net reinsurance loss in the previous calendar year and for the net administrative loss that occurred in the previous calendar year, taking into account investment income for the period and other appropriate gains and losses using the following definitions:

- (1) net reinsurance losses shall be the

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1 amount determined for the previous calendar year in accordance
2 with Subsection A of Section 59A-56-9 NMSA 1978 for all
3 members offering an approved health plan reduced by
4 reinsurance premiums charged by the alliance in the previous
5 calendar year. Net reinsurance losses shall be calculated
6 separately for group and individual coverage. If the
7 reinsurance premiums for either category of coverage exceed
8 the amount calculated in accordance with Subsection A of
9 Section 59A-56-9 NMSA 1978, the premiums shall be applied
10 first to offset the net reinsurance losses incurred in the
11 other category of coverage and second to offset administrative
12 losses; and

13 (2) net administrative losses shall be the
14 administrative expenses incurred by the alliance in the
15 previous calendar year and projected for the current calendar
16 year less the sum of administrative allowances received by the
17 alliance, but in the event of an administrative gain, net
18 administrative losses for the purpose of assessments shall be
19 considered zero and the gain shall be carried forward to the
20 administrative fund for the next calendar year as an
21 additional allowance.

22 B. The assessment for each member shall be
23 determined by multiplying the total losses of the alliance's
24 operation, as defined in Subsection A of this section, by a
25 fraction, the numerator of which is an amount equal to that

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1 member's total premiums, or the equivalent, exclusive of
2 premiums received by the member for an approved health plan
3 for health insurance written in the state during the preceding
4 calendar year and the denominator of which equals the total
5 premiums of all health insurance written in the state during
6 the preceding calendar year exclusive of premiums for approved
7 health plans; provided that total premiums shall not include
8 payments by the secretary of human services pursuant to a
9 contract issued under Section 1876 of the federal Social
10 Security Act, total premiums exempted by the federal Employee
11 Retirement Income Security Act of 1974 or federal government
12 programs.

13 C. If assessments exceed actual reinsurance losses
14 and administrative losses of the alliance, the excess shall be
15 held at interest by the board to offset future losses.

16 D. To enable the board to properly determine the
17 net reinsurance amount and its responsibility for reinsurance
18 to each member:

19 (1) by April 15 of each year, each member
20 offering an approved health plan shall submit a listing of all
21 incurred claims for the previous year; and

22 (2) by April 15 of each year, each member
23 shall submit a report that includes the total earned premiums
24 received during the prior year less the total earned premiums
25 exempted by federal government programs.

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1 E. The alliance shall notify each member of the
2 amount of its assessment due by May 15 of each year. The
3 assessment shall be paid by the member by June 15 of each
4 year.

5 F. The proportion of participation of each member
6 in the alliance shall be determined annually by the board,
7 based on annual statements filed by each member and other
8 reports deemed necessary by the board. Any deficit incurred
9 by the alliance shall be recouped by assessments apportioned
10 among the members pursuant to the formula provided in
11 Subsection B of this section; provided that one-half of the
12 assessment paid for any member shall be allowed as a credit on
13 the ~~[future]~~ following annual premium tax return for that
14 member ~~[with the credit limited to fifty percent of the~~
15 ~~premium tax due the first year the assessment is imposed,~~
16 ~~forty percent the second year and thirty percent the third and~~
17 ~~all subsequent years].~~

18 G. The board may defer, in whole or in part, the
19 payment of an assessment of a member if, in the opinion of the
20 board, after approval of the superintendent, payment of the
21 assessment would endanger the ability of the member to fulfill
22 its contractual obligations. In the event payment of an
23 assessment against a member is deferred, the amount deferred
24 may be assessed against the other members in a manner
25 consistent with the basis for assessments set forth in

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Subsection A of this section. The member receiving the
deferment shall pay the assessment in full plus interest at
the prevailing rate as determined by regulation of the
superintendent within four years from the date payment is
deferred. After four years but within five years of the date
of the deferment, the board may sue to recover the amount of
the deferred payment plus interest and costs. Board actions
to recover deferred payments brought after five years of the
date of deferment are barred. Any amount received shall be
deducted from future assessments or reimbursed pro rata to the
members paying the deferred assessment. "