

**2013 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2337**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

SB 2337  
2/4/13  
Job Number 18213

Conference Committee

Committee Clerk Signature:



### Explanation or reason for introduction of bill/resolution:

Relating to basic health benefit plans and standard health benefit plans.

### Minutes:

Attached testimony.

**Vice Chairman Larsen** opened the hearing on SB 2337.

**Senator Sinner**, District 46 in Fargo, introduced SB 2337 to the committee. See attached testimony #1.

**Dan Ulmer**, BCBSND, testified in support of SB 2337. See attached testimony #2.

**Senator Anderson** asked for a number of how many people would be affected.

**Mr. Ulmer** responded that it was 2 contracts so it could either be family or singles.

**Senator Anderson** asked what happens to the plan that needs to be offered with the federal program as it relates to the ND mandates that aren't necessarily in the federal program.

**Mr. Ulmer** replied that there are potentially two answers. (1) If the mandate existed in the past then it is covered. (2) If it's a new mandate then you have to cover it.

**Senator Larsen** asked what some of the characteristics are now of the plan that's going to be phased out and what the options will be for updating.

**Mr. Ulmer** explained that the Standard and Basic plans were two separate plans. The basic plan was mandate free. Many things were exempted. The standard plan was supposed to be what's more standard in the marketplace. The problem is the price has been pushed through the roof. (Meter 0:10:20)

**Senator Dever** was interested in knowing if the Insurance Commissioner had expressed an opinion on this.

Senate Human Services Committee  
SB 2337  
2/4/13  
Page 2

**Chrystal Bartuska**, Product Filing Division Director for the Insurance Dept., reported that the department does support SB 2337.

There was no further testimony in favor of or in opposition to SB 2337.

The hearing was closed on SB 2337.

# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Human Services Committee**  
Red River Room, State Capitol

SB 2337  
2/5/13  
Job Number 2337

Conference Committee

Committee Clerk Signature 
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**Explanation or reason for introduction of bill/resolution:**

Relating to basic health benefit plans and standard health benefit plans.

**Minutes:**

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**Chairman J. Lee** opened discussion on SB 2337.

**Sen. Anderson** moved a **Do Pass** on SB 2337.

Seconded by **Sen. Axness**.

**Roll call vote 5-0-0. Motion carried. Carrier is Sen. Anderson.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/29/2013**

Amendment to: SB 2337

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill removes the requirement of offering basic and standard health plans due to the impact of the Patient Protection and Affordable Care Act on the plan requirements.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill has no fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no fiscal impact.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill has no fiscal impact.

**Name:** Aimee Delzer

**Agency:** ND Insurance Department

**Telephone:** 701-328-2930

**Date Prepared:** 01/31/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/29/2013**

Bill/Resolution No.: SB 2337

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no fiscal impact.

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The bill has no fiscal impact.

**Name:** Aimee Delzer

**Agency:** ND Insurance Department

**Telephone:** 701-328-2930

**Date Prepared:** 01/31/2013

Date: 2/5/13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2337

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Sen. Anderson Seconded By Sen. Axness

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Anderson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2337: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2337 was placed on the Eleventh order on the calendar.

**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2337**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee  
Peace Garden Room, State Capitol

SB 2337  
March 12, 2013  
Job 19810

Conference Committee

*Jocelyn Gallagher*

## Explanation or reason for introduction of bill/resolution:

Relating to basic health benefit plans and standard health benefit plans

## Minutes:

Testimony 1, 2

## Hearing opened.

**Dan Ulmer, Blue Cross Blue Shield:** (testimony 1) Refer to testimony. Distributed (testimony 2), the statutes which are being impacted.

**3:47 Chairman Keiser:** What will happen to any individual on this contract between now and January 1, 2014?

**4:33 Dan Ulmer:** I would think that the contract is annual.

**Chairman Keiser:** What if it were a contract out of cycle?

**Dan Ulmer:** We would be open to extending it to them at least until they are eligible for something else.

**Chairman Keiser:** But this bill does not say that.

**Dan Ulmer:** Yes, the law doesn't say anything about this. This bill would go in effect Aug. 1.

**Chairman Keiser:** I would then ask the insurance department to determine whether we should have an amendment to protect those outside of a January cycle.

**6:05 Representative Boschee:** Could we just change an action date to December 31 or January 1 instead of an amendment?

**Chairman Keiser:** Yes, we could.

**Dan Ulmer:** That okay with me, I don't see an issue.

**7:00 Chrystal Bartuska, Product Filing Division Director for the Insurance Department:** This bill amends the current law that requires companies to provide this type of coverage. If a consumer has this coverage from September to December and to say this coverage is illegal may not be 100% correct.

**Chairman Keiser:** That is a good clarification but it still doesn't address why does Blue Cross and Blue Shield want to extend this unless we say if you have an isolated group they've got to go.

**Chrystal Bartuska:** The insurance department nor Blue Cross and Blue Shield want to leave consumers high and dry without any type of coverage.

**Chairman Keiser:** We will hold this until tomorrow. Please make sure we're not creating a problem down the road.

**Chrystal Bartuska:** We support Blue Cross and Blue Shield and it's more beneficial for the carriers given what's changing with the ECA in 2014.

**Chairman Keiser:** Do we have an effective date on this bill other than the standard?

**Chrystal Bartuska:** It would be the standard.

**Chairman Keiser:** Do you (the intern) have that amendment ready? Putting an effective date as of December 31, 2013, this bill becomes effective then. Is that right?

**Chrystal Bartuska:** Yes.

**Chairman Keiser:** The bill has no fiscal impact?

**Chrystal Bartuska:** No, the fiscal note was requested.

Support:

Opposition:

Neutral:

Hearing closed.

**Chairman Keiser:** We will hold this bill until tomorrow. Spoke about legislative history regarding a basic plan.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2337  
March 13, 2013  
Job 19819

Conference Committee

*Jocelyn Gallagher*

### Explanation or reason for introduction of bill/resolution:

Relating to basic health benefit plans and standard health benefit plans

### Minutes:

No attachments

**Rebecca Ternes, Deputy Commissioner at the ND Insurance Department:** The question was whether we need a later effective date. I would ask you don't do that because it slows down the bill but I also don't think it changes the situation. The bill would remove the requirement but it wouldn't require the companies to pull the plans out.

**1:15 Chairman Keiser:** That's the one side of the argument, the insurance department is very flexible but this bill as structured would allow them to pull the plan.

**1:28 Rebecca Ternes:** At minimum they would have to give ninety days' notice by law.

**Chairman Keiser:** The law says you can do it even with ninety days' notice and it's such a small group being covered. They thought everything was on a Jan. to Jan. contract which would eliminate the issue. But then they were not sure.

**2:28 Rebecca Ternes:** I asked Dan to check on that. What is the requirement if they pull out an entire plan, do they need to get approval from us before they do that?

**Chairman Keiser:** Not if the law says they can.

**Rebecca Ternes:** I'm wondering if they have to give us notice before they give the ninety days to the policy holders. I don't know if we have to approve or disapprove or if we have to give them ability to do that.

**Chairman Keiser:** I'm reading what the bill says.

**3:12 Rebecca Ternes:** If the ninety days was the length, that it might be a possibility.

**3:25 Chairman Keiser:** If we put in a delayed effective date, it wouldn't hurt anything?

**Rebecca Ternes:** No, it would just end up with a conference committee, right?

**Chairman Keiser:** That's possible.

**3:39 Representative Kasper:** If the plans are pulled or canceled what happens to the person who is now uninsured?

**3:48 Rebecca Ternes:** They would have to look for other health insurance if they like after Jan. 2014 and then they have a choice to stay uninsured or find another plan.

**Chairman Keiser:** If they had insurance and the only reason they lost it was the plan went away, that's the delimia.

**Representative Kasper:** What if I don't qualify and now I have no coverage.

**4:33 Chairman Keiser:** Prior to Jan 1 of 14 then you can come into some coverage with a pre-existing but if there is a six month window and the plan goes away, you cannot get coverage for that six months.

**4:54 Rebecca Ternes:** I feel like I don't have all the information to say it couldn't happen within that time or not. There is no statute to notify us.

**Chairman Keiser:** Putting the delay date, a small group of people might get a really bad deal because we didn't accommodate them.

**5:43 Rebecca Ternes:** I was hoping to have the renewal dates for you and how many are basic versus standard, and I don't have any of that for you.

**5:51 Chairman Keiser:** If we added an amendment making an effective date December 31, 2013, then we're guaranteeing anyone who has coverage can maintain it till that date and then swing over into the new plans.

**Rebecca Ternes:** Yes, if you want to be safe, that would be the date to pick.

**Representative Boschee:** I move to amend the effective date to December 31, 2013.  
**Second by Rep. Becker**

**Representative Becker:** Do I understand the amendment to mean midnight on December 31?

**Chairman Keiser:** I believe that's the way it works. **Voice vote, the amendments on the bill and we have SB 2337 before us as amended.**

**Representatvie Sukut:** I would move a do pass amended, **second by Rep. Kreun.**

**Chairman Keiser:** Roll taken on a do pass as amended on SB 2337. **The do pass as amended carries 13-2-0. Rep. Becker will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/29/2013**

Amendment to: SB 2337

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- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill has no fiscal impact.

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The bill has no fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no fiscal impact.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill has no fiscal impact.

**Name:** Aimee Delzer

**Agency:** ND Insurance Department

**Telephone:** 701-328-2930

**Date Prepared:** 01/31/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/29/2013**

Bill/Resolution No.: SB 2337

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill has no fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill has no fiscal impact.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The bill has no fiscal impact.

**Name:** Aimee Delzer

**Agency:** ND Insurance Department

**Telephone:** 701-328-2930

**Date Prepared:** 01/31/2013

March 13, 2013

V12  
3/13/13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2337

Page 1, line 4, remove the first "and"

Page 1, line 6, after "plans" insert "; and to provide an effective date"

Page 16, after line 4, insert:

**"SECTION 7. EFFECTIVE DATE.** This Act becomes effective on January 1,  
2014."

Renumber accordingly

Date: 3-13-13b

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2337**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number 13 0837.01001

Action Taken:     Do Pass     Do Not Pass     Amended     Adopt Amendment  
                          Rerefer to Appropriations     Reconsider     Consent Calendar

Motion Made By Boschee                      Seconded By Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser			Rep. Bill Amerman		
Vice Chairman Gary Sukut			Rep. Joshua Boschee		
Rep. Thomas Beadle			Rep. Edmund Gruchalla		
Rep. Rick Becker			Rep. Marvin Nelson		
Rep. Robert Frantsvog					
Rep. Nancy Johnson					
Rep. Jim Kasper	<i>Vote</i>				
Rep. Curtiss Kreun					
Rep. Scott Louser					
Rep. Dan Ruby					
Rep. Don Vigasaa					

Total    Yes                      No

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
*effective date, Dec 31, 2013*

Date: 3-13-2013b

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2337**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number 13.0837.01001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider  Consent Calendar

Motion Made By Sukut Seconded By Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser	✓		Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	✓	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper		✓			
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby		✓			
Rep. Don Vigasaa	✓				

Total Yes 13 No 2

Absent 0

Floor Assignment Becker

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2337: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2337 was placed on the Sixth order on the calendar.

Page 1, line 4, remove the first "and"

Page 1, line 6, after "plans" insert "; and to provide an effective date"

Page 16, after line 4, insert:

**"SECTION 7. EFFECTIVE DATE.** This Act becomes effective on January 1, 2014."

Renumber accordingly

**2013 TESTIMONY**

**SB 2337**

Testimony on SB 2337

Madame Chair and members of the committee,

I am George Sinner, Senator from District 46 in Fargo.

I am bringing this bill before you today at the request of Blue Cross Blue Shield of North Dakota. According to the information provided to me, this bill repeals the North Dakota law that requires all health insurers to offer to the public a basic health insurance plan.

Further the requirements under this North Dakota basic plan fall short of the requirements under the Affordable Care Act, this section of the code should be repealed. The repeal of this section will eliminate undue work for both the health insurance providers and the insurance department who has to review and approve the plans.

For this, I will defer to Mr. Ulmer of Blue Cross Blue Shield to further explain this bill and any questions you might have.

Madame Chair and members of the committee, thank you for allowing me to appear before you today and introduce this legislation.

Madam Chair and members of the committee,

I am Dan Ulmer representing Blue Cross Blue Shield of North Dakota (BCBSND) and we asked that this bill be introduced.

I am here to address proposed changes to legislation enacted by this assembly back at a time when the cost of health insurance began escalating at a significant pace, impacting the ability of small employers to maintain coverage for their employees. These statutes, related to small group health reform, were enacted way before the current metallic plans anticipated in the health care exchanges required under the federal health care reform measures in 2010, and even predate the portability and limits on preexisting condition reforms enacted as part of HIPAA in 1996.

These statutes implementing small group reform in 1993 included a concept of two standard benefit plan designs with minimum benefit levels that all health insurance carriers doing business in the small group market were required to offer as a part of its portfolio of products.

These two mandated small group products, titled, "basic health benefit plan" [see, §26.1-36.3-01(5), N.D.C.C.] and "standard health benefit plan" [see, §26.1-36.3-01(34), N.D.C.C.] were the product of a health benefit plan committee appointed by the commissioner of insurance and comprised of representative carriers, small employers, employees, health care providers, and producers. §26.1-36.3-08(1), N.D.C.C. The charge of this committee was, within 180 days after its appointment, to design the basic health plan and standard health plan taking into considerations of several factors outlined in the statutes. See, §26.1-36.3-08, N.D.C.C.; §26.1-36.3-06, N.D.C.C. The design of these two mandated products was established in 1993, and the health benefit plan committee has not met subsequently in order to update or amend these products since that time.

The result of this has been two products that are anachronisms in that these products are difficult to administer and maintain, have not been amended to keep up with state law changes and requirements and, frankly, were never very popular in the marketplace. For BCBSND, the health insurance carrier I represent, over the past ten (20) years, there have only been sales to four groups, totaling fourteen (14) contracts in these products, with only one (1) group remaining involving two (2) contracts. Moreover, because these products are not "metallic" and, therefore will not meet the individual mandate and cannot be offered through the exchange, beginning 2014 BCBSND will not be permitted to sell these products to individuals or groups sized 2-employees to 50-employees, the target market initially intended to be impacted by this legislation.

Our analysis at this juncture indicates that this remaining small group of two will most likely be eligible for any of the exchange plans available as beginning in 1/1/14 health plans cannot deny anyone coverage under the guarantee issue (no denial for pre existing conditions) clause in PPACA. Therefore if this bill is passed BCBSND intends to work closely with the insurance department to find an appropriate alternative for any members who remain covered under these benefit plans.

As a result, BCBSND urges this committee to approve 2337 with a "DO PASS" and I will attempt to answer any questions that the committee might have.

Dan Ulmer  
Blue Cross Blue Shield of North Dakota.

**26.1-36-09.4. Preventive health care - Copayments.**

The standard health benefit plan developed under section 26.1-36.3-08 must provide coverage for prenatal care visits for a covered person and recommended immunizations and well child visits for a covered person from birth to the age of five years. The plan may impose only a five dollar copayment for each prenatal care visit and a two dollar copayment for each well child visit or immunization visit.

**26.1-36.3-08. Health benefit plan committee.**

1. The insurance commissioner shall appoint a health benefit plan committee composed of representatives of carriers, small employers, employees, health care providers, and producers.
2. The committee shall recommend the form and level of coverage to be made available by a small employer carrier pursuant to section 26.1-36.3-06.
3. The committee shall recommend benefit levels, cost-sharing levels, exclusions, and limitations for the basic health benefit plan and the standard health benefit plan. The committee shall design a basic health benefit plan and a standard health benefit plan each of which contain benefit and cost-sharing levels that are consistent with the basic method of operation and the benefits of health maintenance organizations, including any restrictions imposed by federal law.
  - a. The plans recommended by the committee may include cost containment features such as:
    - (1) Utilization review of health care services, including review of medical necessity of hospital and physician services;
    - (2) Case management;
    - (3) Selective contracting with hospitals, physicians, and other health care providers;
    - (4) Reasonable benefit differentials applicable to providers that do or do not participate in arrangements using restricted network provisions; and
    - (5) Other managed care provisions.
  - b. The committee shall submit the health benefit plans described in this subsection to the commissioner for approval within one hundred eighty days after the appointment of the committee.

**26.1-36.3-10. Waiver of certain state laws.**

Any law requiring the coverage of a health care service or benefit, or requiring the reimbursement, utilization, or inclusion of a specific category of licensed health care practitioner, does not apply to a basic health benefit plan delivered or issued for delivery to small employers in this state under this chapter and section 26.1-36-37.2.

**26.1-36.4-07. Health benefits package required.**

An insurance company, nonprofit health service corporation, or health maintenance organization may not deliver, issue, execute, or renew any health insurance policy, health service contract, or evidence of coverage on an individual or group basis unless the company, corporation, or association actively offers a basic health benefit plan and a standard health benefit plan as approved by the commissioner. The commissioner shall design and adopt a

#2

basic health benefit plan and a standard health benefit plan to be offered on an individual and group basis as required by this section. The basic and standard health benefit plans must be those developed under section 26.1-36.3-06. This section does not require a health maintenance organization to provide any benefit it is prohibited from providing under federal law and does not excuse failure to provide benefits mandated by federal law.

**26.1-**

① SB2337  
3-12-2013

SB 2337

Mr. Chairman and Members of the House IBL Committee

I am Dan Ulmer representing Blue Cross Blue Shield of North Dakota (BCBSND) and we asked that this bill be introduced.

I am here to address proposed changes to legislation enacted by this assembly back at a time when the cost of health insurance began escalating at a significant pace, impacting the ability of small employers to maintain coverage for their employees. These statutes, related to small group health reform, were enacted way before the current metallic plans anticipated in the health care exchanges required under the federal health care reform measures in 2010, and even predate the portability and limits on preexisting condition reforms enacted as part of HIPAA in 1996.

These statutes implementing small group reform in 1993 included a concept of two standard benefit plan designs with minimum benefit levels that all health insurance carriers doing business in the small group market were required to offer as a part of its portfolio of products.

These two mandated small group products, titled, "basic health benefit plan" [see, §26.1-36.3-01(5), N.D.C.C.] and "standard health benefit plan" [see, §26.1-36.3-01(34), N.D.C.C.] were the product of a health benefit plan committee appointed by the commissioner of insurance and comprised of representative carriers, small employers, employees, health care providers, and producers. §26.1-36.3-08(1), N.D.C.C. The charge of this committee was, within 180 days after its appointment, to design the basic health plan and standard health plan taking into considerations of several factors outlined in the statutes. See, §26.1-36.3-08, N.D.C.C.; §26.1-36.3-06, N.D.C.C. The design of these two mandated products was established in 1993, and the health benefit plan committee has not met subsequently in order to update or amend these products since that time.

The result of this has been two products that are anachronisms in that these products are difficult to administer and maintain, have not been amended to keep up with state law changes and requirements and, frankly, were never very popular in the marketplace. For BCBSND, the health insurance carrier I represent, over the past ten (20) years, there have only been sales to four groups, totaling fourteen (14) contracts in these products, with only one (1) group remaining involving two (2) contracts. Moreover, because these products are not "metallic" and, therefore will not meet the individual mandate and cannot be offered through the exchange, beginning 2014 BCBSND will not be permitted to sell these products to individuals or groups sized 2-employees to 50-employees, the target market initially intended to be impacted by this legislation.

Our analysis at this juncture indicates that this remaining small group of two will most likely be eligible for any of the exchange plans available as beginning in 1/1/14 health plans cannot deny anyone coverage under the guarantee issue (no denial for pre existing conditions) clause in PPACA. Therefore if this bill is passed BCBSND intends to work closely with the insurance department to find an appropriate alternative for any members who remain covered under these benefit plans.

As a result, BCBSND urges this committee to approve 2337 with a "DO PASS" and I will attempt to answer any questions that the committee might have.

Dan Ulmer

Blue Cross Blue Shield of North Dakota.

② SOB 2337  
3-12-2013

#### **26.1-36-09.4. Preventive health care - Copayments.**

The standard health benefit plan developed under section 26.1-36.3-08 must provide coverage for prenatal care visits for a covered person and recommended immunizations and well child visits for a covered person from birth to the age of five years. The plan may impose only a five dollar copayment for each prenatal care visit and a two dollar copayment for each well child visit or immunization visit.

#### **26.1-36.3-08. Health benefit plan committee.**

1. The insurance commissioner shall appoint a health benefit plan committee composed of representatives of carriers, small employers, employees, health care providers, and producers.

2. The committee shall recommend the form and level of coverage to be made available by a small employer carrier pursuant to section 26.1-36.3-06.

3. The committee shall recommend benefit levels, cost-sharing levels, exclusions, and limitations for the basic health benefit plan and the standard health benefit plan. The committee shall design a basic health benefit plan and a standard health benefit plan each of which contain benefit and cost-sharing levels that are consistent with the basic method of operation and the benefits of health maintenance organizations, including any restrictions imposed by federal law.

a. The plans recommended by the committee may include cost containment features such as:

(1) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(2) Case management;

(3) Selective contracting with hospitals, physicians, and other health care providers;

(4) Reasonable benefit differentials applicable to providers that do or do not participate in arrangements using restricted network provisions; and

(5) Other managed care provisions.

b. The committee shall submit the health benefit plans described in this subsection to the commissioner for approval within one hundred eighty days after the appointment of the committee.

#### **26.1-36.3-10. Waiver of certain state laws.**

Any law requiring the coverage of a health care service or benefit, or requiring the reimbursement, utilization, or inclusion of a specific category of licensed health care practitioner, does not apply to a basic health benefit plan delivered or issued for delivery to small employers in this state under this chapter and section 26.1-36-37.2.

#### **26.1-36.4-07. Health benefits package required.**

An insurance company, nonprofit health service corporation, or health maintenance organization may not deliver, issue, execute, or renew any health insurance policy, health service contract, or evidence of coverage on an individual or group basis unless the company, corporation, or association actively offers a basic health benefit plan and a standard health benefit plan as approved by the commissioner. The commissioner shall design and adopt a

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basic health benefit plan and a standard health benefit plan to be offered on an individual and group basis as required by this section. The basic and standard health benefit plans must be those developed under section 26.1-36.3-06. This section does not require a health maintenance organization to provide any benefit it is prohibited from providing under federal law and does not excuse failure to provide benefits mandated by federal law.

**26.1-**