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DESCRIPTION

1222

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1222

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1222

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1794

Committee Clerk Signature

Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on HB 1222.

Rep. Jim Kasper, District 46: In my private life I own a financial planning employee benefits company that provides insurance benefits to group insurances, 401K plans, and individual products, such as cancer insurance, and short term disability accident insurance policies to clients mostly through cafeteria plans which are employer sponsored plans where benefits could be tax deducted by employees, as well as employers. What we find in the ND insurance marketplace is the lack of insurance companies that want to come into our market, more so in the area of small group individual type policies like a cancer insurance plans. A lot of employees purchase a supplemental cancer insurance policy through their employer, where they get a group induced benefit, and if cancer strikes, this policy pays cash to the people, in addition to their major medical. The major medical pays your hospital bills your doctor bills, and the cancer insurance puts cash in your pocket to help offset the loss of income if cancer strikes yourself or a family member. When these insurance companies come into a marketplace where they have not been before, and in ND we have a lot of insurance companies who are not here in the marketplace, they will have a lag time from when policies are purchased to when benefits are paid, and that could be 3-6 months to a year. Hopefully,

when people purchase cancer insurance they're not going to have cancer next month, and the claim goes out. As the premiums start coming into these insurance companies, if we have in statute that they have to pay a percentage of those claims out right away, or them premiums out in the form of claims, and there are no claims, they have a difficult time entering the marketplace. The purpose of this bill is to reduce the amount of a percentage of premiums that the insurance companies need to pay out on any given year. There was an indication that there may be some inadvertent things in the bill regarding striking language, particularly on line 6, and if we have inadvertently done some to those things as far as influence the large group market, then we need to fix the bill. On the first area we're trying to look at group coverage's, and reduce that from 75% to 65% of the premiums collected and need to be paid out, in the areas of individual policies from 65% to 55%. What this bill is intended to do is to allow more competition to come into the ND marketplace to give our consumers more choices for these types of insurance products, and allow them to let the natural course of economics work. We artificially set the premium payout limit to high, they simply can't meet it, and we therefore don't have competition.

Rep. Vigesaa: Could you explain on the bottom of the bill the strikeout language there, and how that would affect current legislation, or current law?

Rep. Kasper: That may be an inadvertent part of the bill that should stay in there. It appears we're striking out what I'm trying to do.

Rep. Keiser: You talked about the lag time for companies new to ND. When these ratios are applied, is it applied to just their operation in ND, or is it applied to the national scope of operation, in terms of these ratios?

Rep. Kasper: I would suspect in the Department of Insurance it would be to a block of business in ND.

Jim Poolman, ND Insurance Commissioner: This is not a new issue, it was looked at over the interim, and it was an issue we discussed at the Senate in the last legislative session to try to see how we could increase the health insurance competition in our marketplace in ND.

See Handout A.

In visiting with companies across the country that would potentially like to break into the ND marketplace, one of the things that they have told us is that our artificial limits in state law are too high, and are not compatible with what other states have on the books in relationship to the loss ration payouts. This particular bill just sets a lower floor for both the individual and for the group policies. Our bill basically attaches a set of formulas that's in a model regulation into the bill, and it codifies that regulation. Basically the problem is if a company wants to come in and do business in ND, if they're putting administrative expenses as a percentage of premiums, when you're entering into the marketplace and you're not writing millions of dollars of premiums, it's very difficult to function with those floors set in state law. What our bill does is it drops 5 percentage points on the individual side, and on the group side it basically sets a formula, so if the increases based on the volume of premium, you start to write. So, it allows companies to break into the marketplace, and as the percentage of premium based on expenses, it allows a bit more of factor for expenses instead of those payouts. Our bill is a little bit more elaborate than just dropping the artificial floor in payouts, and so basically that's what our bill does. I support the concept of this bill, because we need to do something to create a more competitive environment in health insurance in ND. Employers and individuals are asking all the time why they don't have options to do business in ND, and I think this will help us in helping to create.

Rep. Ruby: I'm not quite sure I understand the insurance market as well as most in this room. I understand how this is moving in the percentage of premium dollars and payouts, but I'm just

wondering that if a company comes in and now they would have a little more leeway here, based on their premium on the actuarial in all their expenses, are they still not going to have to have a higher premium, if for some reason they need more of that higher percentage premium dollars to go to their administrative cost if they're rate is going to be much of a difference in premium prices of a offer?

Jim: Premiums have to be in correlation to the benefits that are paid out. One of the elements we're trying to get over is trying to get insurance companies to be able to sign provider contracts. There will be changes in benefits, and that's OK, because not everybody needs the same benefits that are provided under the policy of the lead carrier. What the lead carrier will tell you today is that you're reducing consumer standards, and will be cherry picking, and I disagree with that, and I don't think there will be. We have provisions in place all through the Century Code to be able to combat that.

Rep. Ruby: If I understand this right then there isn't a certain regulation on a certain benefit level that your office requires of these.

Jim: That's right, the only thing that they have to comply with when designing benefits under their plan, are the mandated benefits that you folks set by state law under the group policy.

Rep. Vigesaa: Do you have any idea how many more companies may come to ND under this federal statute, and when those companies come in is there any fear that some of the companies entering our state may not be financially stable?

Jim: I would never make any sort of promise on how many companies are going to come in and compete. What we've been told by several companies is that the level of lost ratios in our state law are not conducive to coming in and doing business in ND, and if we can make these changes, I can go out and potentially then have an affective voice in getting those companies to come in. One of the major components of insurance regulation in any state is financial

solvency regulation, and there are very stringent guidelines for companies to come in to basically apply to do business in ND. We do examinations on those companies even if we have to go through piles and piles of financial paperwork to even allow them to come in to do business in ND. It is one of the cornerstones of insurance regulation, and I can guarantee that we would never allow a company to come in to do business that wasn't financially shaky at all, because an insurance contract is written, and is only as good as the paper it is written on if they can't afford to pay the claims under the contract.

Rep. Kasper: Coming back to if we would reduce the percentage payout. The insurance companies don't simply take that extra money and go blow it on dividends, and whatever. Wouldn't it be safer to say it's extra premiums that were not paid out in benefits to begin with, because of the lag to be part of a reserve structure that they would set up. So, then in the future when benefits start to be paid out, they would have to have accumulated reserves from the lack of ND business, and that might soften their demand for premium increases.

Jim: Any time in the health insurance market that a company comes in and asks for a premium adjustment, we look at all of those factors. The bottom line is that under your scenario if the company was to come in and ask for a rate increase when they haven't been paying out in claims, they're not going to get a rate increase from our department. There are safeguards all throughout insurance code that allow us to really have a pretty significant heavy hand in that regard.

Rep. Thorpe: Did I here you mention that in SB 2154 they can come in and do business, and then when they reached a certain volume they would start to move back to the 75% again?

Jim: Under the individual portion of that bill, there're significant formulas that we apply in a regulation that would be codified, and the genesis of your question is correct. As a company

comes in and starts to gain premium volume, the loss ratio based on that premium volume would increase, and that would be the basis of the regulation.

Rep. Thorpe: Would that work on this bill?

Jim: If you wanted to apply that same concept to this bill, that certainly would be an option that works.

Rep. Amerman: The 75% and 65% in the statute now, is that a number that throughout the years has come down from another number, or has it always been that number, or was there a time when there wasn't a number?

Jim: The history that I know is that these particular provisions were put into state law when we did group health insurance reform, and those numbers have not changed since the mid 1990's.

Connie Hofland, AFLAC: Opposed to HB 1222. See written testimony #1.

Rep. Keiser: The 50%, 55%, or 60% loss ratios are those in code as an administrative rule, or where are those percentages coming from?

Connie: I don't believe they are in code.

Rep. Keiser: On line 6 and 7 of the bill, do we also have to remove the strike on that language then?

Connie: Yes.

Mike Fix, Insurance Department: For different lines of business, the minimum loss ratios aren't prescribed in statute, or the administrative rule, but then there are other types of coverage's that aren't addressed specifically. So, on those we go to section 26.1-30-19 paragraph 3, which relates to benefits being reasonable in relation to premiums. The 50% for non cancelable coverage's, 55% for guaranteed renewable and 60% for optionally renewable are department minimum loss ratios that have been in place for some time before. I haven't suggested changing those, because they're reasonable in relation to what is being used

around the country. On line 10, the benefits to group policy holders is crossed out, and so really it's not applying then to 65% anything, so I think that was inadvertently crossed out.

Dan Ulmer, AVP Government Relations: Opposed to HB 1222. See written testimony #2.

Rep. Kasper: It looks to me like it shows the total premium that would cause flex in ND for 2006 was \$378 million, approximately. 10% of \$378 million would be \$37 million, so your 10% in your testimony says goes to administration. 10% of a big number is a whole lot of money, so if the small insurance companies come in to ND, they'd have the same type of overhead that it would cost, only not as many policy holders, but they have staff, buildings, customer service centers, actuaries, and so on. Wouldn't it make sense if they don't have the premium block there, the expenses are going to be higher in proportion to the premium that they collect?

Mike: When a company files a policy for approval, they were putting the actuarial in the memorandum, the projected lifetime loss ratio, which would be based on national statistics. If they come back in later for a premium increase request, than I would look at not only the national new defective loss ratios, but the state ones as well.

Rep. Keiser: If this bill were passed, would you be using these ratios on just ND, or on the national one?

Dan: The ratios that are in this bill are in the others that are being considered are projected lifetime loss ratios. Right now we have some fairly significant competition, and it's frankly welcome. They come in and they sign the provider arrangements, and they are in the individual market lower than our cost. As they build their pool they are going to have a higher loss ratio in ND, and it depends on what they get for the health of the pool, so it depends on who you bring to town.

Rep. Ruby: Blue Cross Blue Shield has a 10% loss ratio, or owns a percent of the administration. Another company comes in and they have to be down to 25%-35%, and that to

me seems like it gives Blue Cross Blue Shield an advantage, especially with the line of agreements that you have that those companies don't have.

Dan: The answer is fairly obvious, if you give me your dollar, how much value do you want for it?

Rep. Ruby: You mentioned that because these companies are going to have money in their reserve funds, how much money does Blue Cross Blue Shield have in their funds in this last year?

Dan: 26.3. We had a few good years.

Rep. Ruby: So, that would be something that would be oversight of the Insurance Commissioner as well, for those other companies?

Dan: Yes, but we are held to a higher standard as well.

Rep. Keiser: Will this help bring competition?

Dan: Likely not. There may well be some interest.

Rep. Keiser: If you're going to have fixed costs on a policy regardless, and a small player is going to have the same fixed costs as a big player, they have to be able to distribute it over as many policies, and so the question is how does that work from a business perspective. The argument is an innovative smaller company might come in and design a product that offers significantly less benefits that would be attractive, because they will be able to cover this loss ratio, and their cost of doing business. Why won't that work?

Dan: The final answer is because we will end up cleaning up at Blue Cross as they pull out, when they discover it doesn't work. From our perspective, it is a question of how big of a bang do you want consumers to get for their health care dollar, and that's the bottom line.

Rep. Kasper: What you said about if the insurance carrier would lower benefits to compete here, where that under ND law we have mandated benefits, so when an insurance company would lower benefits beyond what is already mandated would be impossible, would it not be?

Dan: No, I believe that's not so. While you lower benefits as you lower co-payments, coinsurance raises deductibles, less coverage, and you could still do that within the mandate.

Rep. Kasper: Lets not confuse co pays and deductibles, which all insurance companies can offer, and they can have a multitude of co pays and deductibles. A company could not come into ND and change the mandates on what the benefits are required to be paid under ND law, same as Blue Cross can not. They can go higher deductibles, but you can compete that way as well, so to apply that insurance companies are going to lower benefits I think is an unfair comparison, based on what might happen in the marketplace. Another way that you would reduce your premiums would be for you to have fewer claims, which would also help with an insurance company, because fewer claims would begin to save more in premiums to pay off their claims.

Dan: You're correct in that. I think the other illusion to the mandates is we've already tried the basic mandate free plans, and no one wants them.

Rep. Amerman: The 75% and the 65% that's on the books right now, the Blue's return 90 cents to healthcare out of every dollar. Could you use this 75% and keep the 25%, or is there other statutes and rules that because you are so successful in longevity, that wouldn't apply?

Dan: Theoretically, yes. The probability I discovered in talking to the actuaries is more in likely no. Frankly, what has happened is that over time we have been expected to hold that type of loss ratio.

Rep. Keiser: If you want to increase your premium rate, do you have to have approval for that?

Dan: ND is a prior approval state. There's two ways commissioners do it around the country, they file it used, which means you just file your rates and commissioners usually have 60-90 days to review the rates and disapprove them. In ND we're prior approval, so we file the rates, and they approve them.

Rep. Kasper: Going back to the question could you use the 75% payout. You could, however being you're nonprofit, that would make no sense whatsoever. If you raised the rates and paid out 75% benefits, and 10% overhead cost, you'd have 15% profit, and then you'd dividend it back to the customers in the first place. So, based on the nature of your company you'd never do something like that, I would assume?

Dan: I think you just passed a bill out allowing us to pay dividends this year.

Rep. Kasper: It was alluded to about this dividend that came back. Can you tell us why that refund was paid?

Jim: Let me give you a bit of history of what happened in our discussions with Blue Cross Blue Shield, ever since I've been Commissioner. Blue Cross Blue Shield has had an underwriting gain. We are a prior approval state, so both the rates for individual policies, and small and large group policies comes to our department. We have reduced every one of those rate increases that Blue Cross Blue Shield requested from us except for one year, and that was 2005. In every one of those years Blue Cross Blue Shield added money to surplus. In 2005, we did not reduce the rate increase, in was a very nominal rate increase that was requested by the Blue's, and they had approximately a \$30 million underwriting gain, and that's a benefit for the people of ND. We said it's time for Blue Cross Blue Shield to return some money to the policy holders that helped build the surplus of that company, and so we made some basic demand to the company, and I have no regulatory ability by the way to force Blue Cross Blue Shield to give back that money. Unfortunately, I had to use the bully pulpit of the

office to be able to do that. I wanted the full \$30 million dollars back, they're a non for profit mutual insurance company, and I wanted the entire underwriting gain to go back. I by law am not allowed to use the risk base capital ratio in helping to set rates, and I couldn't offset a rate increase by using the risk base capital ratio, and that's prohibited by state law. So, when Mr. Ulmer says we could offset premiums by artificially using up that surplus, it's very difficult to do when I, like state law, cannot use the risk rate capital large in that ratio in analyzing the risk of their portfolio, and their business to offset the premiums. So, this was the easy way to do it.

Rep. Thorpe: Do companies handling the Medicare Part D come under similar guidelines to the rules we're discussing here?

Jim: No, we have zero regulatory authority over Medicare Part B. All of that comes under the Center for Medicare Services, which is the federal government.

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1222**

House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **30 January 2007**

Recorder Job Number: **2238**

Committee Clerk Signature



Minutes:

Chairman Kaiser called the Committee to order and opened discussion of HB 1222.

Representative Kasper gave an overview of the proposed amendments. (Attached)

Representative Thorpe: I had on my bill that Aflac had some concern about the amendments.

Representative Kasper: There concern was lines 15, 16, 17, and 18, where it says this section does not apply. Those policies are what Aflac sells and these amendments do not apply to that. We overstrike that portion that says, "This section does not."

Representative Johnson: You said this would help start ups. Does this say this? Or is it just for everybody?

Representative Kasper: It is for everybody, but it will give other companies that have not come into our market an opportunity to look at us.

Representative Thorpe: I Move the Amendments.

Representative Kasper: I second.

A voice vote was taken and the amendments were accepted.

Representative Thorpe: I move Do Pass as Amended.

Representative Ruby: I second.

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House Industry, Business and Labor

Bill/Resolution No **HB 1222**

Hearing Date: **30 Jan 07**

Chairman Kaiser: Representative Kasper is absolutely right. There are a couple of things that impact accessibility and availability in health insurance. One is the minimum loss ratio and we are attempting to address that.

A roll call vote was taken: Yes: 12, No: 1, Absent: 1 (Dosch)

Representative Vigesaa will carry the bill.

**House Amendments to HB 1222 (70155.0101) - Industry, Business and Labor
Committee 01/30/2007**

Page 1, line 6, remove the overstrike over "~~For all policies providing hospital, surgical,~~"

Page 1, line 7, remove the overstrike over "~~medical, or major medical benefit, an~~" and remove
"An"

Page 1, line 8, remove "accident or"

Page 1, line 9, remove "other"

Page 1, line 10, remove the overstrike over "~~benefits to group policyholders~~"

Page 1, line 15, remove the overstrike over "~~This section does not~~"

Page 1, remove the overstrike over lines 16 through 18

Renumber accordingly

Date: 1-30-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1222

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS, AS Amended

Motion Made By Rep. Thorpe Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman		X
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch			Rep. Zaiser	X	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 12 No 1

Absent 1

Floor Assignment Rep. Vigesaa

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

REPORT OF STANDING COMMITTEE

HB 1222: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1222 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over "~~For all policies providing hospital, surgical,~~"

Page 1, line 7, remove the overstrike over "~~medical, or major medical benefit, an~~" and remove "An"

Page 1, line 8, remove "accident or"

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Renumber accordingly

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1222

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1222

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **March 6, 2007**

Recorder Job Number: **4423**

Committee Clerk Signature



Loss ratios on accident & health insurers :

Representative Jim Kasper, District # 46, Fargo - In Favor

Offering bill featuring loss ratios for loss ratios for accident & health insurance policies in ND. A similar bill, passed to our side *House* I haven't compared them, if not identical within a word or two of each other. The bill changes the required payout on group health insurance policies compared to ratio premiums, reduces that from 75% to 65% of premium received and on individual policies from 65% to 55% out ratios.

The reason that I introduced the bill is I have been in the insurance business since college many years ago, I market health insurance and what I've seen over the years is that I don't think we have enough insurance companies in ND that are here that can compete in the marketplace. In learning the Legislative process and the laws of underwriting, because of the writing in the current statute where if you have a new health insurance company coming into ND, there is a lag time where policies are sold and premiums received and claims are being paid out. It's that lag time that the insurance companies may have a difficult time paying that 75% loss ratio or that 65% of loss ratio on the current law. This bill is to reduce that loss ratio payout, so that we have the opportunity to open up the market place in ND for some additional

group insurance companies into the state. Is this a panacea? No. We need to look at ways and opportunities to bring more competition to the health insurance marketplace.

S Potter: We're actually talking about anticipated loss ratios, not actual claim experience. It is very close to the bill with one exception, when we passed it over we lower the group premium to 70, not 65 and wonder if you'd be ok with that amendment.

Jim K: Your committee is going to do what you think is in the best interest for public policy. If you would move those rates down or up a little bit, we may end up in a conference committee, we may wind up having the same legislation, but the goal here is to reduce those required payouts, so if you think 70% is where it needs to be, so be it. I would like to see the lower ratio, but you can make that decision.

S Potter: I would like to see it at 90, I didn't get my way. I'm going to offer an amendment, and thought I'd give you an opportunity to discuss it. I'm suggesting that the companies have to offer an advertisement what their loss ratio is. That they put it on the front page of the policy or any of their promotional materials. Any comments on that?

Jim K: Loss ratios change daily. One week it might be 70%, the next week might be 60%, you're saying that if they have to advertise their loss ratios on their literature, it may be incorrect after it's printed. I would be a little concerned about the advertising.

S Potter: I'm talking about the anticipated loss ratio. Whenever a policy is filed with the insurance department, the actuaries have said, this policy will return 70% or 60% or 55% of anticipated claims, that's all we're talking about. Not as actual experience, but as actuaries have said, so it doesn't change. Once it's filed, it's filed.

Jim K: I'd have to chew on that, I don't like it.

S Klein: You've sold health policies, not in your line of work?

Jim K: I'm in the group market...

S Klein: As now a PERS recipient, do I know, is it important to me, or am I looking beyond..

Jim K: I think you're in the right direction. I don't think the consumer would know what it means.

S Klein: We as a committee and you as an agent understand that, but as the general public it would be another number that would be more confusing down the road.

OPPOSITION

Dan Ulmer, Blue Cross/Blue Shield - Opposition

TESTIMONY # 2 7:20 m- 8:20m

S Hacker: Have you seen S Potter's amendment?

Dan U: I don't think we have a problem with that. It would be a good idea.

S Hacker: How would that work, the loss issues. Probably not 65 – 70, it may be 69.8, or 70.2...

Dan U: The key is anticipated loss ratio. When we file a product with the department, we anticipate what the loss will be, there is a company goal.

S Hacker: What do other states do? Are their loss issues in other states?

Dan U: Varies. Some have just individual loss ratios, some have group loss ratios, There is a great debate in raising the loss ratios in some states. I read from going from 75 to 85 in California and if you don't meet that, whatever you're under that, the money is donated to some uninsured fund of some sort. MT doesn't have loss ratios, SD has 75%, Iowa 75-65%, MN close to 75 – 65%.

John Risch – United Transportation Union – Opposition

Oppose the bill because it would take lots of money as it's profits, building, and overhead. The idea that a lower loss ratio will have a positive impact on policy holders is not true. It cannot happen. We are in a unique situation in that we always have competition in health care

providers for railroad workers. We get to pick between BC/BS and United Health Care, both very large insurance companies. They administer the same plan. Our group has much better luck with BC/BS because they have a larger presence in ND, and can negotiate down the fees with providers. United Healthcare will deny them claims and only pay a portion of reasonable and customary charges. Members are then stuck with the additional cost. Talk about free market and the idea that we will get more insurance into the market and a positive impact on consumers because competition is good and it will bring down rates, I don't think that applies to healthcare, because when you look at providers, they don't vary that much in charges, they compete on the perception of quality service. Healthcare compete on price with their plans, one plan is more extensive than the other, but in reality, if they provide you with a cheaper plan it provides you with less benefits. *Used the example of the farmer who "said" he had health insurance and when the policy is checked, had hardly any coverage.*

Competition won't bring those costs down. There are 2 bills, better idea is to increase the loss ratios to 80% or higher. BC/BS is much beyond that already, that would be a better move and better public policy.

Mike Fix – Director of the Life and Health Division and the actuary for the Insurance Department - ASKED TO THE PODIUM – Neutral 15:10m

The Commissioner has said, he was ok with this, but would prefer 2154 because that's the one that had a 70% loss ratio. The only difference between the two bills is that 2154 the minimum loss is 70% and 1222 is 65%. Montana has no minimum loss ratio, that means a company can submit a policy for approval that pays 50%, 40% and they are not precluded from doing so by their statute. We asked, "doesn't that cause difficulty?" They are uncomfortable with it, but, they would like to change it but never had. SD has 75% for group insurance 65% for individual. Annual premiums under \$250 you take 5 points off making it \$70 - \$60

