

2011 SENATE HUMAN SERVICES

SCR 4005

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SCR 4005
1-19-2011
Job Number 13088

Conference Committee

Committee Clerk Signature *ASML*

Explanation or reason for introduction of bill/resolution:

Directing the Legislative Management to study the impact of the Patient Protection and Affordable Care Act on the Comprehensive Health Association of North Dakota.

Minutes:

Attachments.

Senator Judy Lee opened the hearing on SCR 4005.

Senator Judy Lee introduced the resolution. She is on the board of CHAND which is the high risk pool in ND. This is a pool of money which is provided by carriers in ND to provide insurance to those who have been denied insurance by private carriers.

The main point of this resolution is to make sure that we are doing what is necessary with our state high risk pool with considerations for the new health care reform bill. There is a requirement for a high risk pool in that. We have had ours for about 30 years. Some states don't have them. The federal requirements are somewhat different than the ones in ND. This requests legislative management to study the CHAND program and how it correlates with the federal health care reform so we can make sure we have a product that is not only acceptable to the federal government but appropriate for the citizens of ND.

Rod St. Aubyn, BC/BS, explained that BC/BS is the current administrator for CHAND. He did not have written testimony but later provided it for the record. Attachment #1

Senator Tim Mathern asked about the timeline for the patient protection in the Affordable Care Act in terms of establishing the pool for people who can't get insurance. Is that compatible with this study?

Mr. St. Aubyn answered that under the federal PPACA law a temporary transitional program of the federal high risk pool was established. People in current CHAND pool could not jump over to the federal high risk pool unless they elected to cancel coverage and stay uninsured for six months. That is only a transitional program – only until Jan. 1, 2014.

This study is really immaterial about the federal high risk pool because it will be going away at the end of 2013.

Senator Spencer Berry said it was his understanding the CHAND does not necessarily meet the requirements of PPACA and asked if that was correct.

Mr. St. Aubyn said it would be partially true that it does not meet the requirements of that temporary high risk pool. Our state law specifies that a person does not have to be uninsured for the 6 months. The plan that CHAND currently offers more than likely would not meet the definition of a qualified plan under PPACA. The federal law does not require the state's high risk pool to meet all of the components of PPACA. The real question – Is there a need for CHAND?

Senator Tim Mathern wondered if the resolution should give a little more direction as to who is part of this study like a representative from CHAND.

Mr. St. Aubyn replied that this is something the CHAND board directed that they wanted studied.

There was no further testimony.

The hearing on SCR 4005 was closed.

Senator Tim Mathern wondered if there should be wording to include a representative from the CHAND board.

Senator Judy Lee thought it was obvious that they would be part of the discussion. She didn't know if they needed a seat at the table.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SCR 4005
2-15-2011
14579

Conference Committee

Committee Clerk Signature *Manson*

Explanation or reason for introduction of bill/resolution:

Minutes:

Senator Judy Lee opened SCR 4005 for committee work.

Senator Spencer Berry moved a **Do Pass**.

Seconded by **Senator Dick Dever**.

Roll call vote 5-0-0. **Motion carried**.

Carrier is **Senator Spencer Berry**.

Date: 2-15-2011

Roll Call Vote # _____

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SCR 4005

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. Berry Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee, Chairman	✓		Sen. Tim Mathern	✓	
Sen. Dick Dever	✓				
Sen. Gerald Uglem, V. Chair	✓				
Sen. Spencer Berry	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Berry

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

REPORT OF STANDING COMMITTEE

SCR 4005: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the
Eleventh order on the calendar.

2011 HOUSE HUMAN SERVICES

SCR 4005

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SCR 4005
March 16, 2011
Job #15513

Conference Committee

Committee Clerk Signature *Vicky Crabtree*

Explanation or reason for introduction of bill/resolution:

The Legislative Management to study the impact of the Patient Protection and Affordable Care Act.

Minutes:

See attached Testimony #1

Chairman Weisz: Opened the hearing on SCR 4005.

Sen. Judy Lee: From District 13 sponsored and introduced the bill. As many of you are aware the Comprehensive Health Association of ND affectionately known as CHAND is our high risk pool and I have been on the board of this for quite some time. This is a way of providing insurance for those folks who have been denied coverage by individual insurance companies and this insurance is available to our high risk pool in ND. The maximum premium that can be charged is 135% of what the average premium would be for the same coverage in the private market. This plugs into the whole issue of what ND will be doing and what the impact will be both individuals and to the state itself as far as the affordable healthcare act goes. It is important for us to know how this bill affects us because PPACA says the premium has to be a maximum of a 100% of what these other policies are. It won't be the cheapest policy you can buy. So, having at the same level of what standard policies would be that would also have people in the pool that would be young, old and healthy is an interesting thing of course. We are dealing with the fact that the feds won't recognize so far as you well know about all of this stuff, we are waiting for lots and lots of rules to be promulgated. Whether or not we are going to have to have two? The people who are currently in our CHAND program are not permitted to move into the federal program which is different. Then we would have a two tier system possibly. Those are some of the questions we will need to address on the state level. It is going to be very important for us to see how the affordable healthcare act is going to affect our high risk pool. Not only the cost which is paid by the way an assessment on the insurance company to our insurance carriers in the state. They are going to assess it on the amount of business they have that goes into a pool and that is the money out of which the costs are paid for the individual who has coverage. One couldn't go into the federal plan under the proposal unless they had no insurance for six months. Anybody that is a high risk person doesn't want to go bare for six months as a rule. So, it is unlikely you drop the state coverage and yet if the premium is going to be that much different they might be looking at taking that risk. All of that is part of the discussion that we need to consider. This is one

piece of the big puzzle that has to do with the impact that we have on citizens as well as the state. With the affordable healthcare act we need to make sure this coverage continues to be available appropriately for those folks who are considered high risk policy holders because of their existing health circumstances. I encourage your support.

Chairman Weisz: Is there any difference in the coverage level on the federal high risk pool too versus CHAND that we would have to address or look at?

Sen. Lee: I think we will be entering into that conversation on what the essential benefits are. Mr. St. Aubyn who I know is very knowledgeable because BC/BS administers this and Kathy Roebelle is the individual who works with it on a daily basis. He is certainly prepared to answer specific questions about that. I do believe we will end up with issues about essential benefits and what has to be covered in the CHAND plan based on what the federal requirements are.

Rod St. Aubyn: Representing Blue Cross Blue Shield of ND testified in support of the resolution. (See Testimony #1.)

Chairman Weisz: In your testimony you pointed out that CHAND doesn't have to meet the essential benefit. Are you sure about that?

Rod: I visited with the insurance department's attorney and she has verified that the high risk pool is not considered regular insurance and so it does not have to comply with the essential benefit.

NO OPPOSITION

Chairman Weisz: Closed the hearing on SCR 4005

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SCR 4005
March 16, 2011
Job #15514

Conference Committee

Committee Clerk Signature	<i>Vicky Crabtree</i>
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Minutes:

Chairman Weisz: We have the most successful high risk pool in the nation. So our CHAND has worked well.

Rep. Paur: I'll make a motion for a Do Pass.

Rep. Anderson: Second.

Voice Vote: Motion Carried

Bill Carrier: Rep. Paur

Date: 3-16-11
Roll Call Vote # 7

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4005

House 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 Rep. Paur Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. Paur

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

*Voice Vote Motion Carried
Place on Consent Calendar*

REPORT OF STANDING COMMITTEE

SCR 4005: Human Services Committee (Rep. Weisz, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4005 was placed on the Tenth order on the calendar.

2011 TESTIMONY

SCR 4005

1

**Testimony on SCR 4005
Senate Human Services Committee
January 19, 2011**

Madam Chair and Committee Members, I was asked to submit my previous comments in writing. For the record, I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota. SCR 4005 requests a study of the impact of PPACA on the State's CHAND Program. To better explain this I need to give the committee a history lesson on CHAND.

In the insurance world there are two types of health insurance coverage – employer group coverage and non-group individual coverage. One must not confuse “individual coverage” with single coverage. Individual coverage is basically “non-group”. Group coverage is “guaranteed issue” meaning that the insurer must accept every person within the group, regardless of their health status. Because of this guaranteed issue, group coverage is typically higher priced coverage for comparable benefits compared to non-group individual coverage.

In the non-group coverage, each applicant has to medically qualify for an insurer's coverage based on each company's underwriting guidelines. This is done in order to maintain lower insurance rates for those within that non-group pool. Those that are denied coverage under the non-group individual program are guaranteed coverage through the State's high risk pool, CHAND. I believe there are about 38 states that have programs similar to CHAND. Because those individuals in the high risk pool are typically “sicker”, the amount of claims that they submit are much higher than premium revenues. In ND, the state law provides that the premiums are at 135% of a comparable policy in the non-group market. Even with the higher premiums, CHAND loses several million dollars each year. State law requires that this shortfall be collected from health insurers doing business in ND through an assessment process based proportionately on their market share.

CHAND has 4 types of applications – **Traditional, HIPAA, TAARA, and Over age 65 or disabled.**

Traditional applicants are those that have 1) been denied coverage because of a pre-existing condition, or 2) current coverage is more expensive than CHAND coverage, or 3) a restrictive rider placed on their coverage limiting benefits, or 4) reached their lifetime maximums.

HIPAA applicants are those individuals going from group coverage to individual coverage and have had 18 months of previous qualifying health insurance coverage without having to medically qualify.

TAARA is the Trade Adjustment Assistance Reform Act and is meant to provide federal financial assistance for health coverage for those people who have lost their jobs due to the job being shipped overseas.

The **Over Age 65 or Disabled** policy is actually a Medicare Supplement – like policy for those who are denied coverage for a Medicare Supplement policy outside an open-enrollment time period.

Effective 2014 under PPACA, insurers will no longer be able to medically qualify their non-group individual applicants. In other words, beginning on January 1, 2014, both the group and non-group will be “guaranteed issue”. Between June, 2010 and January 1, 2014, PPACA created a new Federal High Risk Pool since not every state had a high risk pool. Part of the problem with this new high risk pool is that the applicant must be uninsured for 6 months. As a result, the number of people applying for this temporary transitional program has been very low. This new Federal High Risk Pool will expire on 1/1/14.

We are asking for this study to determine what role CHAND should assume after PPACA becomes effective in 2014. Because no one will be denied coverage, should Traditional CHAND exist after that date? Is there still a role for the Over Age 65 or Disabled (Med Supp-like product)? What about HIPAA and TAARA applicants? Since CHAND does not have to comply with the “essential benefits” under PPACA, it is possible that CHAND rates may end up being cheaper than the new PPACA health plans. Should those in CHAND be allowed to keep their coverage or will they have to switch to a new PPACA plan? All of these public policy issues need to be studied during the interim period with a proposed bill draft to deal with these issues during the 2013 Legislative Session.

Senator Mathern suggested that your committee might want to consider some other type of study committee that includes other stakeholders, such as the Insurance Department and health insurers. While I understand his reasoning, I have total confidence that these stakeholders will have plenty of input during these interim committee meetings. I am confident that the Insurance Department will be a valuable resource in dealing with this study and will play an important role as a speaker at each of the interim committee meetings.

I hope this explains the purpose for this study. It was requested by the CHAND Board of Directors. As I mentioned during your hearing, Blue Cross Blue Shield of North Dakota is the “lead carrier” and administers CHAND for the CHAND Board. Please feel free to contact me should you have any questions.

#1

Testimony on SCR 4005
House Human Services Committee
March 16, 2011

Mister Chairman and Committee Members, for the record, I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota. SCR 4005 requests a study of the impact of the Patient Protection and Affordable Care Act (PPACA) on the State's CHAND Program. The CHAND Board requested this study resolution. Blue Cross Blue Shield of North Dakota is the "lead carrier" and administers CHAND for the CHAND Board. To better explain this program I will need to give the committee a short explanation of CHAND.

In the insurance world there are two types of health insurance coverage – employer group coverage and non-group individual coverage. One must not confuse "individual coverage" with single coverage. Individual coverage is basically "non-group". Group coverage is "guaranteed issue" meaning that the insurer must accept every person within the group, regardless of their health status. Because of this guaranteed issue, group coverage is typically higher priced coverage for comparable benefits compared to non-group individual coverage.

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I hope this explains the purpose for this study. Because of the uncertainties of the future regarding PPACA and CHAND’s role, we feel this study is extremely important. We ask for this committee’s approval of HCR 4005. Mr. Chairman, I would be willing to attempt to answer any questions the committee may have.