

August 2009

## FACTORS IMPACTING THE COST OF HEALTH INSURANCE - BACKGROUND MEMORANDUM

House Bill No. 1577 (2009) (attached as an [appendix](#)) provides for a study of factors impacting the cost of health insurance and health insurance company reserves. The bill provides that the factors considered in the study must include:

1. Minimum loss ratio;
2. Three tier rating bands;
3. The effect of the federal Employee Retirement Income Security Act, Medicare, Medicaid, and the state children's health insurance program on individual and small group pricing;
4. Options for self-funding, fully insured funding, and combinations of these two methods of funding;
5. Prepaid coverage versus risk coverage;
6. Corporate structure of health insurance companies;
7. Health insurance company subsidiaries;
8. Rate, form, and reserve approval requirements;
9. Statutory barriers to competition and lower costs;
10. The role of health promotion versus risk coverage;
11. Transparency requirements based on tax incentive benefits;
12. Plan design or coverage options;
13. Health service mandates;
14. Uninsured and underinsured North Dakotans;
15. Proposed federal changes in health care coverage;
16. The business organization and tax status of health insurance companies and the impact this has on premium rates and reserves; and
17. Other health insurance cost and competition factors.

The bill also includes a directive to study the impact of health insurance company board member compensation and employee salaries, benefits, and severance packages on health insurance rates and health insurance company reserves.

### BACKGROUND

The director of the federal Office of Management and Budget recently stated that rising health care costs are the primary fiscal challenge facing the country. The World Health Organization reported that in 2006 health care expenditures accounted for 15.3 percent of gross national product for the United States and could exceed 20 percent within a decade based upon current trends.

Although estimates by numerous organizations vary greatly, the United States Census Bureau estimated that there were over 45 million uninsured individuals in the United States in 2007. That figure

represents approximately 15 percent of the total population of the country. The Census Bureau estimates indicated that of the individuals with insurance coverage, approximately 177 million had employment-based private coverage, approximately 27 million had private direct purchase coverage, nearly 40 million were covered by Medicaid, over 41 million were covered by Medicare, and nearly 11 million were covered by military health care. The Census Bureau study further estimated that over the three-year period from 2005 through 2007, approximately 12 percent of North Dakotans were without health insurance coverage.

A recent study indicated that the cost of health care provided for uninsured individuals results in approximately \$1,000 per year in added health insurance premium costs per covered family. According to the report, uninsured individuals received over \$115 billion in health care from providers in 2008. Of that amount, the uninsured paid about 37 percent from their own pockets. Third-party sources, such as governments and charities, covered about 26 percent of the cost of coverage for the uninsured and the remaining amount went unpaid and was ultimately covered through additional health insurance premiums.

### 2009 LEGISLATION AFFECTING HEALTH INSURANCE AND INSURERS

In 2009 the Legislative Assembly considered a number of bills related to health insurance issues.

#### Bills Enacted

House Bill No. 1010 expanded the Consolidated Omnibus Budget Reconciliation Act of 1985 health insurance coverage as provided under the federal American Recovery and Reinvestment Act of 2009.

House Bill No. 1204 expanded group and individual health insurance coverage minimums to require coverage of illness or loss that is a consequence of intoxication or being under the influence of any narcotic and provided that group health insurance coverage may exclude coverage of a loss to which a contributing cause was the insured's commission of a crime or the insured's engagement of an illegal occupation, except a crime relating to driving under the influence.

Senate Bill No. 2214 revised the Comprehensive Health Association of North Dakota (CHAND) eligibility requirements for Health Insurance Portability and Accountability Act of 1996 applicants to address residency issues and relocation issues, implemented resident dependent and resident spouse eligibility provisions from the Model High Risk Pool Act,

addressed limitation of CHAND coverage of newly born children, addressed the waiting period coverage under CHAND, and streamlined the eligibility process for CHAND applicants who have reached a lifetime maximum under a private health insurance policy.

Senate Bill No. 2274 prohibited a health insurance provider from using an independent external review unless the provider first has exhausted all internal appeal processes offered by the insurance company, nonprofit health service corporation, or health maintenance organization.

Senate Bill No. 2318 defined "qualified program of all-inclusive care for the elderly" and provided there is a \$250,000 surety bond requirement for a qualified program of all-inclusive care for the elderly operating in the state.

House Bill No. 1196 removed the requirement that the Insurance Commissioner annually report to the Legislative Assembly or the Legislative Management the commissioner's findings relating to the use of modified community ratings for hospital and medical insurance.

Senate Bill No. 2104 provided it is an unfair or deceptive act or practice in the business of insurance to base compensation of claims employees or contracted claims personnel on the number of policies canceled, the number of times coverage is denied, use of a quota limiting the number of claims, or the use of an arbitrary quota or cap limiting the amount of claims payments without due consideration to the merits of the claim.

House Bill No. 1012 removed the income level requirement for medical assistance for minors and required the Department of Human Services is to establish the income levels for minors at amounts that are not less than is required by federal law.

House Bill No. 1391 required the Legislative Management to conduct a comprehensive study of unmet health care needs in the state. The bill provided that the study must include an assessment of the needs of underinsured and uninsured individuals and families. In addition to considering the federal health care initiatives, the study must include consultation with the State Department of Health, the Insurance Commissioner, and the Department of Human Services. This study has been assigned to the Health and Human Services Committee.

### **Proposed Legislation Not Enacted**

Senate Bill No. 2397 would have established contracting standards and practices that a health insurance carrier would be required to follow when dealing with health care providers. The bill would have required health insurance carriers to include in contracts with health care providers payment terms, fee schedules, and the methodology used to calculate fee schedules. The bill would have required a health insurance carrier to provide written reasons and a termination review mechanism in any case in which the carrier terminates a contract with a provider. In

addition, the bill would have established standards with respect to physician profiling.

Senate Bill No. 2306 would have established rate filing procedures and review standards for nonprofit mutual health insurance companies and would have established premium rate standards. The bill also would have required that appeals of disapproved rate schedules be heard by an independent hearing officer and would have established time deadlines for the appeal process.

Senate Bill No. 2175 would have provided that coverage under a health insurance policy would not terminate for a dependent child under the age of 26 who is a full-time student during the time the child is taking a leave of absence from full-time student status due to a medically certified injury or illness.

Senate Bill No. 2272 would have required that health insurance coverage for prosthetics be at least equal to the coverage provided under the federal Medicare program.

Senate Bill No. 2280 would have required that health insurance coverage for mental health and substance abuse be equal to that required by federal law.

Senate Bill No. 2314 would have changed the minimum loss ratio for health insurance policies from 70 percent to 85 percent for group policyholders and from 55 percent to 75 percent for individual policyholders. The bill also would have provided that for all policies providing accident, disability income insurance, specified disease, hospital confinement indemnity, or other limited benefit health insurance, an insurer providing such a plan that is subject to state insurance regulations must return benefits to group and individual policyholders in the aggregate of not less than 65 percent of the premium received.

Senate Bill No. 2276 would have required health insurers subject to state insurance regulation to provide a disclosure to the insured at initial policy application or coverage and at any time the plan's premiums change which states in clear language the anticipated loss ratios for the plan.

Senate Bill No. 2362, House Bill No. 1012, and House Bill No. 1478 each contained provisions that would have changed eligibility requirements relating to the children's health insurance program.

Senate Bill No. 2442 would have required a Legislative Management study of Blue Cross Blue Shield of North Dakota to determine whether legislative changes are appropriate to the laws relating to nonprofit mutual insurance companies.

House Bill No. 1568 would have required the State Department of Health to establish and provide administrative services for a select committee on the status of health care.

House Concurrent Resolution No. 3010 would have proposed a constitutional amendment to prohibit laws that restrict an individual's choice of private health care systems or private plans, interfere with a person's right to pay for lawful medical services, or impose a penalty or fine for choosing to obtain or

decline health care coverage or for participation in any health care system or plan.

### **POSSIBLE STUDY APPROACH**

In conducting this study, it will be necessary to continue to monitor federal legislation affecting health insurance which is currently under consideration. In addition, the committee may seek testimony from the Insurance Commissioner regarding regulation of insurance in the state and the governance structure of insurers; from insurers regarding the insurance market

in the state, including factors influencing pricing and competition; from medical providers; and from consumer groups. The committee also may seek information from other state agencies and officials such as the State Department of Health and the Department of Human Services regarding health services provided by those agencies and the Tax Commissioner regarding taxation of insurance companies doing business in this state.

ATTACH:1