

1 SENATE BILL 469

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Steven P. Neville

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10 AN ACT

11 RELATING TO TAXATION; AMENDING SECTIONS OF THE MEDICAL  
12 INSURANCE POOL ACT; EXEMPTING MEDICAID MANAGED CARE PREMIUMS  
13 FROM NEW MEXICO MEDICAL INSURANCE POOL ASSESSMENT CALCULATIONS;  
14 REMOVING PREMIUM TAX CREDITS ON ASSESSMENTS FOR NEW MEXICO  
15 MEDICAL INSURANCE POOL EXPENSES; REMOVING ELIGIBILITY FOR NEW  
16 MEXICO MEDICAL INSURANCE POOL ENROLLMENT OF INDIVIDUALS WHO ARE  
17 ELIGIBLE FOR COVERAGE THROUGH THE NEW MEXICO HEALTH INSURANCE  
18 EXCHANGE OR THE COMMERCIAL INSURANCE MARKET.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 59A-54-10 NMSA 1978 (being Laws 1987,  
22 Chapter 154, Section 10, as amended) is amended to read:

23 "59A-54-10. ASSESSMENTS.--

24 A. Following the close of each fiscal year, the  
25 pool administrator shall determine the net premium, being

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1 premiums less administrative expense allowances, the pool  
2 expenses and claim expense losses for the year, taking into  
3 account investment income and other appropriate gains and  
4 losses. The assessment for each insurer shall be determined by  
5 multiplying the total cost of pool operation by a fraction, the  
6 numerator of which equals that insurer's premium and subscriber  
7 contract charges or their equivalent for health insurance  
8 written in the state during the preceding calendar year and the  
9 denominator of which equals the total of all premiums and  
10 subscriber contract charges written in the state; provided that  
11 premium income shall not include receipts of medicaid managed  
12 care premiums [~~but~~] and shall not include any payments by the  
13 secretary of health and human services pursuant to a contract  
14 issued under Section 1876 of the Social Security Act, as  
15 amended. The board may adopt other or additional methods of  
16 adjusting the formula to achieve equity of assessments among  
17 pool members, including assessment of health insurers and  
18 reinsurers based upon the number of persons they cover through  
19 primary, excess and stop-loss insurance in the state, but shall  
20 not include the number of medicaid enrollees.

21 B. If assessments exceed actual losses and  
22 administrative expenses of the pool, the excess shall be held  
23 at interest and used by the board to offset future losses or to  
24 reduce pool premiums. [~~As used in this subsection, "future~~  
25 ~~losses" includes reserves for incurred but not reported~~

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1 ~~claims.]~~

2 C. The proportion of participation of each member  
3 in the pool shall be determined annually by the board based on  
4 annual statements and other reports deemed necessary by the  
5 board and filed with it by the member. Any deficit incurred by  
6 the pool shall be recouped by assessments apportioned among the  
7 members of the pool pursuant to the assessment formula provided  
8 by Subsection A of this section; provided that:

9 (1) prior to the 2016 pool assessment year,  
10 the assessment for any pool member shall be allowed as a  
11 ~~[fifty-percent]~~ fifty percent credit on the premium tax return  
12 for that member and a ~~[seventy-five-percent]~~ seventy-five  
13 percent credit on the premium tax return for that member for  
14 the assessments attributable to pool ~~[policy holders]~~  
15 policyholders that receive eligible premiums; ~~[in whole or in~~  
16 ~~part, through the federal Ryan White CARE Act, the Ted R.~~  
17 ~~Montoya hemophilia program at the university of New Mexico~~  
18 ~~health sciences center, the children's medical services bureau~~  
19 ~~of the public health division of the department of health or~~  
20 ~~other program receiving state funding or assistance.]~~

21 (2) beginning in the 2016 pool assessment year  
22 that begins on January 1, 2016 and ends on December 31, 2016,  
23 the assessment for any pool member shall be allowed as a  
24 twenty-five percent credit on the premium tax return for that  
25 member and a thirty-seven and one-half percent credit on the

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1 premium tax return for that member for the assessment  
2 attributable to pool policyholders that receive eligible  
3 premiums; and

4 (3) no credit shall be allowed based on  
5 assessments for pool expenses on and after January 1, 2017.

6 D. The board may abate or defer, in whole or in  
7 part, the assessment of a member of the pool if, in the opinion  
8 of the board, payment of the assessment would endanger the  
9 ability of the member to fulfill its contractual obligation.  
10 In the event an assessment against a member of the pool is  
11 abated or deferred in whole or in part, the amount by which  
12 such assessment is abated or deferred may be assessed against  
13 the other members in a manner consistent with the basis for  
14 assessments set forth in Subsection A of this section. The  
15 member receiving the abatement or deferment shall remain liable  
16 to the pool for the deficiency for four years.

17 E. For the purposes of this section:

18 (1) "eligible premiums" means premiums  
19 received, in whole or in part, through the federal Ryan White  
20 CARE Act, the Ted R. Montoya hemophilia program at the  
21 university of New Mexico health sciences center, the children's  
22 medical services bureau of the public health division of the  
23 department of health or any other program that receives state  
24 funding or assistance; and

25 (2) "future losses" includes reserves for

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1 incurred but not reported claims."

2 SECTION 2. Section 59A-54-12 NMSA 1978 (being Laws 1987,  
3 Chapter 154, Section 12, as amended) is amended to read:

4 "59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

5 A. Except as provided in Subsection B of this  
6 section, [~~a person~~] an individual is eligible for a pool policy  
7 only if on the effective date of coverage or renewal of  
8 coverage the [~~person~~] individual is a New Mexico resident, and:

9 (1) is not eligible as an insured or covered  
10 dependent for a health plan that provides coverage for  
11 comprehensive major medical or comprehensive physician and  
12 hospital services;

13 (2) is currently paying a rate for a health  
14 plan that is higher than one hundred twenty-five percent of the  
15 pool's standard rate;

16 (3) has a mental health diagnosis and has  
17 individual health insurance coverage that does not include  
18 coverage for mental health services;

19 (4) has been rejected for coverage for  
20 comprehensive major medical or comprehensive physician and  
21 hospital services;

22 (5) is only eligible for a health plan with a  
23 rider, waiver or restrictive provision for that particular  
24 individual based on a specific condition;

25 (6) has a medical condition that is listed on

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1 the pool's prequalifying conditions;

2 (7) has as of the date the individual seeks  
3 coverage from the pool an aggregate of eighteen or more months  
4 of creditable coverage, the most recent of which was under a  
5 group health plan, governmental plan or church plan as defined  
6 in Subsections P, N and D, respectively, of Section 59A-23E-2  
7 NMSA 1978, except, for the purposes of aggregating creditable  
8 coverage, a period of creditable coverage shall not be counted  
9 with respect to enrollment of an individual for coverage under  
10 the pool if, after that period and before the enrollment date,  
11 there was a ninety-five day or longer period during all of  
12 which the individual was not covered under any creditable  
13 coverage; or

14 (8) is entitled to continuation coverage  
15 pursuant to Section 59A-23E-19 NMSA 1978.

16 B. Notwithstanding the provisions of Subsection A  
17 of this section,

18 [~~(1) a person's eligibility for a policy~~  
19 ~~issued under the Health Insurance Alliance Act shall not~~  
20 ~~preclude a person from remaining on or purchasing a pool~~  
21 ~~policy; provided that a self-employed person who qualifies for~~  
22 ~~an approved health plan under the Health Insurance Alliance Act~~  
23 ~~by using a dependent as the second employee may choose a pool~~  
24 ~~policy in lieu of the health plan under that act; and~~

25 ~~(2)] if a pool policyholder becomes eligible~~

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1 for any group health plan, the policyholder's pool coverage  
2 shall not be involuntarily terminated until any preexisting  
3 condition period imposed on the policyholder by the plan has  
4 been exhausted.

5 C. Coverage under a pool policy is in excess of and  
6 shall not duplicate coverage under any other form of health  
7 insurance.

8 D. A policyholder's newborn child or newly adopted  
9 child is automatically eligible for thirty-one consecutive  
10 calendar days of coverage for an additional premium.

11 E. Except for ~~[a person]~~ an individual eligible as  
12 provided in Paragraph (7) of Subsection A of this section, a  
13 pool policy may contain provisions under which coverage is  
14 excluded during a six-month period following the effective date  
15 of coverage as to a given individual for preexisting  
16 conditions.

17 F. The preexisting condition exclusions described  
18 in Subsection E of this section shall be waived to the extent  
19 to which similar exclusions have been satisfied under any prior  
20 health insurance coverage that was involuntarily terminated, if  
21 the application for pool coverage is made not later than  
22 ninety-five days following the involuntary termination. In  
23 that case, coverage in the pool shall be effective from the  
24 date on which the prior coverage was terminated. This  
25 subsection does not prohibit preexisting conditions coverage in

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1 a pool policy that is more favorable to the insured than that  
2 specified in this subsection.

3 G. An individual is not eligible for coverage by  
4 the pool if:

5 (1) except as provided in Subsection I of  
6 this section, the individual is [~~at the time of application~~]  
7 eligible for medicare, [~~or~~] medicaid or subsidized coverage  
8 through the New Mexico health insurance exchange or commercial  
9 insurance market that would provide coverage for amounts in  
10 excess of limited policies such as dread disease, cancer  
11 policies or hospital indemnity policies;

12 (2) the individual has voluntarily terminated  
13 coverage by the pool within the past twelve months and did not  
14 have other continuous coverage during that time, except that  
15 this paragraph shall not apply to an applicant who is a  
16 federally defined eligible individual;

17 (3) the individual is an inmate of a public  
18 institution or is eligible for public programs for which  
19 medical care is provided;

20 (4) the individual is eligible for coverage  
21 under a group health plan;

22 (5) the individual has health insurance  
23 coverage as defined in Subsection R of Section 59A-23E-2 NMSA  
24 1978;

25 (6) the most recent coverages within the

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1 coverage period described in Paragraph (7) of Subsection A of  
2 this section were terminated as a result of nonpayment of  
3 premium or fraud; or

4 (7) the individual has been offered the  
5 option of continuation coverage under a federal COBRA  
6 continuation provision as defined in Subsection F of Section  
7 59A-23E-2 NMSA 1978 or under a similar state program and the  
8 individual has elected the coverage and did not exhaust the  
9 continuation coverage under the provision or program; provided,  
10 however, that an unemployed former employee who has not  
11 exhausted COBRA coverage shall be eligible.

12 H. ~~[A person]~~ An individual whose health insurance  
13 coverage from a qualified state high risk pool health policy is  
14 terminated because of nonresidency in another state may apply  
15 for coverage under the pool. If the coverage is applied for  
16 within ninety-five days after that termination and if premiums  
17 are paid for the entire coverage period, the effective date of  
18 the coverage shall be the date of termination of the previous  
19 coverage.

20 I. The board may issue a pool policy for  
21 individuals who:

22 (1) are enrolled in both Part A and Part B of  
23 medicare because of a disability; and

24 (2) except for the eligibility for medicare,  
25 would otherwise be eligible for coverage pursuant to the

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1 criteria of this section."

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