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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/19  
 LAST UPDATED 2/22/19

SPONSOR HHHC HB CS/285/aHCEDC

SHORT TITLE Short-Term & Limited-Benefit Plan Act SB \_\_\_\_\_

ANALYST Esquibel

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate	Indeterminate	Indeterminate	Recurring	See Fiscal Implications

(Parenthesis ( ) Indicate Expenditure Decreases)

CS/HB285/aHCEDC relates to HB295 Health Security Act; HB416 Medicaid Buy-In Act; HB436 Align Health Insurance Law with Federal Law; SB279 Health Security Act; SB405 Medicaid Buy-In Act.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)  
 Office of Superintendent of Insurance (OSI)

### SUMMARY

#### Synopsis of HCEDC Amendments

The House Commerce and Economic Development Committee amendments to the House Health and Human Services Committee substitute for House Bill 285 clarify that a short-term plan means a nonrenewable health benefits plan that “is not an excepted benefit or combination of excepted benefits.”

The HCEDC amendments remove delegating to the Superintendent of Insurance the authority to adopt and promulgate rules to establish minimum standards for benefits provided by short-term plans and excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act.

#### Synopsis of Original Bill

The House Health and Human Services Committee substitute for House Bill 285 (HB285/HCCCS) would provide the Office of Superintendent of Insurance (OSI) regulatory

authority over short-term and excepted benefit health insurance coverage.

The bill proposes a new section of the New Mexico Insurance Code for nonrenewable health benefits plans covering state residents that last for a duration of no longer than three months. Such plans would be unavailable to those covered under a short-term plan in the previous 12- month period.

The bill delegates to the Superintendent of Insurance the authority to adopt and promulgate rules to establish minimum standards for benefits provided by short-term plans and excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act. The bill proposes the Superintendent of Insurance create rules related to the sale of such plans, the benefits provided, and the rate standards and medical loss ratios for such plans.

Under the provisions of the bill, employers would only be allowed to offer short-term and excepted benefit health insurance plans through the proposed statutory definition of a bona fide association. The bill prohibits the sale of health benefits plan or health insurance coverage not approved by the Superintendent of Insurance.

The bill proposes a new section of the New Mexico Insurance Code for nonrenewable health benefits plans covering state residents that last for a duration of no longer than three months. Such plans would be unavailable to those covered under a short-term plan in the previous 12- month period.

The bill would include short-term plans in the health insurance provision requiring that health insurance premiums consist of at least 85 percent of direct services to consumers. The bill would also expand the categories of services that are not required to adhere to the 85 percent requirement of direct services. The bill proposes the Superintendent of Insurance be responsible for setting the reimbursement rate for the excepted services. However, under the proposed changes, health insurers could contractually agree that a higher amount of paid premiums than that set by the superintendent could go to reimbursement of direct services.

The bill proposes removing services for which providers receive a tax credit under the Health Alliance Act as excluded direct services.

The bill also proposes definition additions and changes to include short-term plans and excepted benefits.

## **FISCAL IMPLICATIONS**

The Office of Superintendent of Insurance (OSI) does not anticipate any fiscal implications to this legislation, and it could lead to lower state financial and staffing burdens. OSI indicates the legislation would provide OSI with the regulatory authority to curb some of the practices leading to complaints about these types of limited coverage health insurance plans. Additionally, the state may currently be subsidizing New Mexico Medical Insurance Pool high risk pool coverage for individuals who erroneously enroll in these limited coverage health insurance plans and then later find themselves needing comprehensive coverage outside of the major medical coverage open enrollment period and then enrolling and getting subsidized coverage under the high risk pool.

## **SIGNIFICANT ISSUES**

CS/HB285/aHCEDC would require the Superintendent of Insurance to adopt consumer protection rules that define:

- Disclosure of plan coverages, and
- Standards for benefits and terms of coverages including eligibility and renewability rights, ability to cover dependents, coverage of pre-existing conditions, coverage of recurring conditions, probationary periods, limitations and exceptions, and terms of termination of coverages.

CS/HB285/aHCEDC would require the Superintendent of Insurance to issue rules requiring short-term and excepted benefit health insurance plans to spend certain amounts of premium dollars on coverages for insured people, also known as the “medical loss ratio.” The bill would also require the superintendent to promulgate rules relating to premium rate filing with OSI.

The bill would prohibit insurance carriers from selling combined excepted benefit policies in such a way that mimics, but does not provide the full coverage, of a major medical insurance plan. The legislation also requires that short-term plans cover certain essential health benefits.

CS/HB285/aHCEDC would prohibit the sale of excepted benefit plans and short-term plans by associations that are not considered “bona fide.” A “bona fide” association is an association that is formed for purposes other than selling insurance and has been in existence for at least five years.

CS/HB285/aHCEDC would prohibit the sale of unlicensed short-term and excepted health insurance benefit plans.

The bill would amend sections of the Insurance Code to remove exclusions prohibiting regulation of short term and excepted benefit plans.

### **OTHER SUBSTANTIVE ISSUES**

OSI reports short-term limited duration plans are major medical gap health insurance coverage. Excepted benefit plans are plans that supplement major medical insurance and provide extra assurances in cases of accidents or illness. Prohibitions in state and federal law on denials of coverage for pre-existing conditions do not apply. These plans are also allowed to limit the dollar amount they pay for healthcare services and enact annual caps on access to healthcare benefits.

Existing statute limits OSI’s regulatory authority for these health insurance products. A number of important consumer protection statutes in the Insurance Code specifically exempt short-term and excepted benefit plans. However, with changes at the federal level, these plans have become increasingly prominent.

CS/HB285/aHCEDC would authorize OSI to protect consumers and review and approve or deny plans before they are marketed and sold to consumers. The legislation would also allow OSI to ensure these health insurance coverage plans charge appropriately for the benefits they offer. The bill would increase transparency requirements so that consumers are educated about their health insurance coverage purchase.