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FISCAL IMPACT REPORT

SPONSOR	<u>Feldman</u>	ORIGINAL DATE	<u>1/24/08</u>	HB	<u></u>
		LAST UPDATED	<u>2/08/08</u>		
SHORT TITLE	<u>Insurance Defense & Maximum Coverage</u>	SB	<u>226aSCORC</u>		
		ANALYST	<u>Weber</u>		

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of SCORC Amendment

1. On page 2, line 3, after the period, insert "In the event a misstatement in an application is made that is not fraudulent or willful, the issuer of the policy may prospectively rate and collect from the insured the premium that would have been charged to the insured at the time the policy was issued had such misstatement not been made".

Senate Corporations & Transportation Committee amendment still raises the standard of proof so as to require the insurer to show at any time after the policy has been issued that the applicant's statements or omissions were willful or fraudulent but offers the insurer the opportunity to collect future premiums consistent with the actual health of the insured even if any misstatements were not willful.

Synopsis of Original Bill

Senate Bill 226 amends the Insurance Code to raise the standard of proof concerning material misstatements or omissions in individual applications for major medical health insurance during the first two years after a policy is issued, to increase the minimum cap for policies issued under the Minimum Healthcare Protection Act from \$50,000 to \$100,000, and to increase the maximum break in coverage from 63 to 95 days to be deemed a period of creditable coverage.

Section 1 amends NMSA 1978, Section 59A-22-5. Currently, an insurer may void an individual policy of major medical health care coverage or refuse to pay claims on the policy due to material misstatements or omissions, even if inadvertent, regarding pre-existing health conditions in the application for coverage. After the policy has been in effect for two years, the insurer must be able to show that the statements or omissions made were willful or fraudulent. The bill raises the standard of proof so as to require the insurer to show at any time after the policy has been issued that the applicant's statements or omissions were willful or fraudulent.

Section 2 amends NMSA 1978, Section 59A-23B-3. Currently, the annual minimum cap on coverage for policies under the Minimum Healthcare Protection Act is \$50,000.00. The bill proposes to raise the minimum to \$100,000.00.

Section 3 amends NMSA 1978, Section 59A-23E-5. Currently, if an individual had health care coverage under a group health plan, and then loses that coverage, if the individual applies for alternative health care coverage within 63 days, the period of time in which the individual was not covered will be deemed "creditable coverage." Periods of "creditable coverage" are counted against any pre-existing condition waiting periods. The bill raises the number of days to 95 to be deemed a period of creditable coverage.

SIGNIFICANT ISSUES

The PRC developed the legislative language in this bill with the intent to provide additional protections to consumers. The new standard for rescission should make it more difficult for health care insurers to void or deny coverage under individual policies of health care coverage. If as a result of this legislation insurers spend more time on the underwriting process, this increased administrative cost may be passed on to the consumer.

The \$50,000 minimum cap was set in 1991 for health care policies purchased pursuant to the Minimum Healthcare Protection Act, and the cost of health care has increased since that time. The higher minimum may make this product more saleable, and will provide added coverage to individuals who have previously purchased a basic health care policy under this Act from exceeding their maximum yearly benefit.

Increasing the period of time of deemed creditable coverage from 63 days to 95 days will allow individuals more time to seek alternate health care coverage and for some individuals it may decrease the waiting period for coverage of pre-existing conditions.

MW/mt