

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 437

(Senator Middleton)

Finance

Health and Government Operations

Nonprofit Health Service Plans - Hearing and Order - Impact of Law or
Regulatory Action by Another State

This emergency bill authorizes the Insurance Commissioner to hold a hearing *or conduct an examination* and, if warranted, issue an appropriate order to protect subscribers if another state enacts a law *or takes a regulatory action* that imposes specified requirements on a nonprofit health service plan operating in Maryland that are harmful to the interests of subscribers covered by policies issued or delivered in Maryland.

The bill prohibits a nonprofit health service plan from distributing or reducing its surplus under a law or regulatory action subject to the bill, except with the approval of the Commissioner.

Fiscal Summary

State Effect: Any additional workload on the Maryland Insurance Administration (MIA) associated with holding a hearing on regulatory actions taken by another state can be handled with existing budgeted resources. To the extent the Insurance Commissioner conducts an examination on laws enacted or regulatory actions taken by another state, the cost must be paid by the nonprofit health service plan that is the subject of the examination. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Chapters 348 and 349 of 2009 authorized the Commissioner to hold a hearing if another state enacts a law that requires a nonprofit health service plan operating in Maryland to provide a program or benefits for the residents of the other state. The hearing must review and evaluate the impact of the law on the nonprofit health service plan, including the impact on surplus, premium rates for policies issued or delivered in Maryland, and solvency.

The Commissioner must determine whether the impact on the nonprofit health service plan is harmful to the interests of subscribers covered by policies issued or delivered in Maryland and issue an appropriate order to protect the subscribers, where necessary. The order may prohibit the nonprofit health service plan from subsidizing the program or benefits for the residents of another state through premiums charged to subscribers under policies issued or delivered in Maryland or use of any surplus earned through policies issued or delivered in Maryland.

The bill expands these provisions by also authorizing the Commissioner to *conduct an examination* and expanding the grounds for a hearing or examination to include regulatory actions and actions to distribute or reduce the nonprofit health service plan's surplus. The Commissioner must issue an order if it is determined that the surplus distribution or reduction is harmful to the interests of Maryland subscribers.

The bill also expands the permissible actions of an order to include prohibiting the nonprofit health service plan from distributing or reducing its surplus for the benefit of residents of another state or any other action the Commissioner considers necessary to protect Maryland subscribers.

Background: CareFirst BlueCross BlueShield comprises three subsidiaries: (1) CareFirst of Maryland, Inc. (CFMI), domiciled in Maryland, which sells preferred provider organization (PPO) products in Maryland with the exception of Montgomery and Prince George's counties; (2) Group Hospitalization and Medical Services, Inc. (GHMSI), domiciled in the District of Columbia, which sells PPO products and covers members in Montgomery and Prince George's counties, as well as portions of northern Virginia; and (3) CareFirst BlueChoice, which is wholly owned by CFMI and GHMSI, and sells health maintenance organization products throughout Maryland, the District of Columbia, and portions of northern Virginia. Although GHMSI is regulated by the insurance commissioner of all three jurisdictions, nearly 88% of GHMSI's membership resides in Maryland and Virginia, mostly in Maryland.

In December 2008, the Council of the District of Columbia approved legislation requiring the Commissioner for the Department of Insurance, Securities, and Banking (DISB) to

determine whether the portion of CareFirst’s surplus attributable to DC is excessive and order CareFirst to divest itself of excessive surplus through community health reinvestment. The Act requires CareFirst to make an open enrollment program available to a minimum of 2,500 subscribers from DC and prohibits premiums that exceed 125% of standard market rates. Maryland subsequently enacted Chapters 348 and 349 of 2009 to authorize the Insurance Commissioner to issue an order prohibiting subsidization of the new program from either premiums or surplus attributable to Maryland residents. Virginia enacted similar legislation in 2010.

In December 2014, the DC DISB issued an order finding GHMSI’s year-end 2011 surplus (998% of the risk-based capital authorized control level or RBC-ACL) “excessive” and requiring GHMSI to redistribute \$56 million to DC members. According to CareFirst, MIA ordered GHMSI to have a targeted surplus of between 1000% and 1300% RBC-ACL in 2012. Thus, this regulatory action threatens the stability of GHMSI for its Maryland members and the stability of the company’s other member companies for all members. CareFirst advises that lowering GHMSI’s surplus level reduces funds available to pay medical claims.

Additional Information

Prior Introductions: None.

Cross File: HB 859 (Delegate Bromwell, *et al.*) - Health and Government Operations.

Information Source(s): CareFirst BlueCross BlueShield, Maryland Insurance Administration, Department of Health and Mental Hygiene, Department of Legislative Services

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