HB 972

Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 972 (Delegate Kach)
Health and Government Operations

Health Insurers - RBC Reduction Plan

This bill requires each health insurer, if the insurer's risk-based capital (RBC) level exceeds five times the authorized control level, to notify the Insurance Commissioner and file an RBC reduction plan. An RBC reduction plan must effect a reduction of the health insurer's RBC level in the current calendar year and must consider a reduction of premiums charged and an increase in reimbursement for health services delivered under the health insurer's policies or contracts. The Commissioner must approve, deny, or modify the RBC reduction plan, but an insurer may challenge a denial or modification of an RBC reduction plan by the Commissioner.

Fiscal Summary

State Effect: To the extent the bill prevents CareFirst BlueCross BlueShield's surplus from exceeding 800% of RBC requirements, special fund revenues and expenditures for the Senior Prescription Drug Assistance Program (SPDAP) may decline by $4.0 million annually beginning in FY 2010. The Maryland Insurance Administration (MIA) can handle the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Title 4, Subtitle 3 of the Insurance Article provides RBC standards for insurers intended to safeguard the solvency of insurance businesses in the State. Insurers must maintain an amount of capital in excess of minimum levels, which vary by

company, and must file annual reports on their RBC levels. The four RBC levels, in order from highest to lowest, are company action, regulatory action, authorized control, and mandatory control. As RBC levels decline, mandatory reporting and restructuring requirements are triggered for insurers, and the Commissioner is authorized to take specific corrective actions (*i.e.*, at mandatory control level RBC, the Commissioner must take any action necessary to place the insurer under conservation, rehabilitation, or liquidation).

Each domestic insurer has to prepare and submit to the Commissioner a report of its RBC levels for the preceding calendar year. Each report must also be filed with the National Association of Insurance Commissioners (NAIC). If the Commissioner determines that the filed RBC report is inaccurate, the Commissioner adjusts the RBC report to correct the inaccuracy and notifies the insurer of the adjustment, including a statement of the reason for the adjustment.

Two nonprofit health service plans, CareFirst of Maryland, Inc. (CFMI) and Group Hospitalization and Medical Services, Inc. (GHMSI), a CareFirst plan domiciled in the District of Columbia, must maintain a surplus greater than $75,000 or 8% of total earned premium in the preceding calendar year. The Commissioner may determine after a hearing that the surplus is excessive if the surplus is greater than the appropriate RBC requirements. If the surplus of CFMI or GHMSI is determined to be excessive, the Commissioner may order CFMI or GHMSI to submit a plan for the distribution of the excess in a fair and equitable manner to subscribers.

Chapters 557 and 558 of 2008 require CareFirst BlueCross BlueShield, beginning January 1, 2009, to annually provide $4.0 million to SPDAP. Funds must be provided only if CareFirst's surplus exceeds 800% of the consolidated RBC for the preceding calendar year. Funds must be used to subsidize the Medicare Part D coverage gap. SPDAP must provide an annual subsidy up to the full amount of the Medicare Part D coverage gap, subject to the availability of funds.

Background: NAIC developed RBC standards as a measure of the capital surplus an insurer should retain in relation to its size and risk profile. RBC is calculated by applying factors to various assets, premiums, and company reserves. The factors applied in the capital requirements calculation are higher for items with the greatest underlying risk, and lower for safer items. Individual RBC levels will vary among and within types of insurers based on the size and nature of the insurer's business.

CareFirst commissioned a study of the optimal surplus target for CFMI and GHMSI in 2008, which concluded that an appropriate target for CFMI is 500% to 1,200% of RBC and an appropriate target for GHMSI is 750% to 1,050% of RBC. In February 2009,

MIA issued a request for proposals to retain a consultant to evaluate a framework for reviewing the surplus of these nonprofit health service plans.

CareFirst's surplus was below 800% of the consolidated RBC in calendar year 2008 and is anticipated to decline in the near future; however, CareFirst voluntarily agreed to contribute the $4.0 million to SPDAP for fiscal 2009.

State Fiscal Effect: To the extent that the bill prevents CareFirst BlueCross BlueShield's surplus from exceeding 800% of the consolidated RBC by requiring an RBC reduction plan when RBC levels exceed 500% of the authorized control level, special fund revenues and expenditures for SPDAP may decline by $4.0 million annually beginning in fiscal 2010. CareFirst may continue to provide the funding with a lower surplus, although it would no longer be required to do so under statute.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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