Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 3 of the 130th G.A. **Date**: March 11, 2013

Status: As Reported by House Health and Aging **Sponsor**: Reps. Sears and Kunze

Local Impact Statement Procedure Required: No

Contents: To specify licensing and continuing education requirements for insurance agents involved in selling, soliciting, or negotiating sickness and accident insurance through a health benefit exchange and to make changes to copayments, cost sharing, and deductibles for health insuring corporations

State Fiscal Highlights

STATE FUND	FY 2013	FY 2014	FUTURE YEARS
Department of Insurance Operating Fund (Fund 5540)			
Revenues	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	Potential increase	Potential increase
State Employee Health Benefit Fund (Fund 8080)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease	Potential decrease

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- The bill may increase the Department of Insurance's administrative expenses due to insurance agent licensing requirements and regulations, and navigator and in-person assister certification requirements related to a health benefit exchange. If there is any increase in such costs, it would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill may increase fee revenues related to navigator and in-person assister certification requirements. All fee revenues related to such requirements will be deposited into Fund 5540.
- The bill allows a health insuring corporation (HIC) to impose higher copayment and cost sharing charges under health plans if requested by a group contract. Thus, it may potentially decrease the state's costs to provide health benefits to its employees and their dependents. The medical claims costs of the state's self-insured health plan are paid out of the State Employee Health Benefit Fund (Fund 8080).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2013	FY 2014	FUTURE YEARS
Counties and Other Local Governments			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease	Potential decrease

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill allows an HIC to impose higher copayment and cost sharing charges under health plans if requested by a group contract. Thus, it may potentially decrease local governments' costs to provide health benefits to their employees and dependents.

Detailed Fiscal Analysis

Health insuring corporation (HIC) plan copayment and cost sharing

The bill provides limits on a health insuring corporation (HIC) plan copayment, cost sharing, and deductible charges. The bill specifies that the amount of copayment, cost sharing, and deductible charges that an HIC may require its enrollees to pay annually must not exceed 40% of the total annual cost to the HIC of providing all covered health care services, applied to a standard population expected to be covered under the benefit plan. The bill specifies that the requirement must be demonstrated by an actuary who is a member of the American Academy of Actuaries and qualified to provide such certifications as described in the United States qualification standards promulgated by the American Academy of Actuaries pursuant to the code of professional conduct. The bill provides that the limits specified above do not apply to catastrophic-only plans, as defined under the "Patient Protection and Affordable Care Act," provided that such plans meet all applicable minimum federal requirements.

Current law limits the amount of deductible charges that an HIC may require its enrollees to pay, $1,000 per enrollee or $2,000 per family. The bill eliminates those constraints, and also removes the limit on deductibles for high deductible health plans that are linked to health savings accounts.

The bill allows an HIC to impose higher copayment and cost sharing charges under health plans if requested by the group contract, policy, certificate, or agreement holder, or an individual seeking coverage under an individual health plan. Under current law, an HIC may only impose higher deductibles under such health plans. The bill also allows the Superintendent to set different copayment and cost sharing amounts for plans with a medical savings account, health reimbursement arrangement, flexible spending account, or similar account. Under existing law, the Superintendent is allowed to adopt rules allowing different annual deductible amounts for such plans.

Insurance agents and navigators under an exchange

The bill specifies training and continuing education requirements for insurance agents before they can be involved in selling, soliciting, or negotiating insurance through an exchange,[1] or enrolling or offer to enroll a person in a health benefit plan offered through an exchange, on or after October 1, 2013. The bill specifies that the Superintendent of Insurance must establish such training program if an exchange does not require the completion of a training program. The bill also requires the Superintendent of Insurance to approve continuing education courses to be used for compliance with the requirements. An agent that completes the training program required under this bill is allowed to receive continuing education course credit and count toward satisfying the agent's continuing education requirement.

The bill also specifies functions and certification requirements for a navigator. A "navigator" is a person selected to perform certain activities and duties identified in the ACA, and is certified by the Superintendent of Insurance. The bill specifies that only a person who is certified as navigator is allowed to receive navigator funding from the state or an exchange. The bill requires the Superintendent to adopt rules to establish a certification and training program for a prospective navigator and the navigator's employees, including a criminal records screening, initial and continuing education requirements, and an examination before any exchange becomes operational in Ohio. The bill also provides that the Superintendent is allowed to examine and investigate the business affairs and records of any navigator.

Under the bill, the Superintendent is allowed to suspend, revoke, or refuse to issue or renew the navigator certification to any person under circumstances analogous to those that would be grounds under existing law for such an action regarding an insurance agent license.[2] The LSC bill analysis contains details on actions the Superintendant may take regarding certification of navigators.

The bill requires a business entity that terminates the employment, engagement, affiliation, or other relationship with an individual navigator under certain disciplinary actions in the practice of insurance to notify the Superintendent within 30 days following the effective date of the termination, using a format prescribed by the Superintendent. The bill also specifies functions and certification requirements for an in-person assister. "In-person assister" must be an individual, who is either a licensed insurance agent certified to sell insurance through an exchange or a certified navigator.

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[1] An "exchange" is a health benefit exchange established by the state government of Ohio or an exchange established by the United States Department of Health and Human Services in accordance with the "Patient Protection and Affordable Care Act" (ACA). Under the ACA, states must establish a health care exchange, where individuals and small businesses can purchase health insurance, on or before January 1, 2014; the exchange can be federally run, state-run, or can operate as a combination of the two.

[2] Those grounds are specified in section 3905.14 of the Revised Code.

The bill specifies that the Superintendent of Insurance may apply, by rule, the requirements related to insurance agents, navigators, and in-person assisters to any additional entity or person delineated by the federal government to assist consumers or participate in exchange activities. The bill prohibits any individuals from acting as or holding himself or herself out to be an in-person assister unless that individual is either a licensed insurance agent certified to sell insurance through an exchange or a certified navigator.

The bill requires an exchange to allow an insurer to offer any health benefit plan that the insurer seeks to offer through the exchange, so long as such plan is a qualified health plan under the ACA, as determined by the Superintendent of Insurance. The bill requires an exchange to maintain a current list of licensed insurance agents that have met all of the necessary requirements to sell insurance through an exchange. The bill also requires an exchange to include information on how an individual can obtain the contact information of insurance agents who are certified to sell health benefit plans and are operating near the individual's home address.

Fiscal effect

The bill may increase the Department of Insurance's administrative costs related to certifying and training of insurance agents who would sell, solicit, or negotiate insurance through a health benefit exchange, i.e., navigators. Any increase in such costs would be paid from the Department of Insurance Operating Fund (Fund 5540). In addition, the Superintendent of Insurance may impose fees in connection with certifying and training navigators, thereby increasing revenue to Fund 5540. The amount of the increase would depend on the amount of the fee imposed, not specified in the bill, and the number of applicants. Under the bill, all fees related to the navigator certification and training requirements must be deposited into Fund 5540.

The provision allowing an HIC to impose higher copayment and cost sharing charges under health plans if requested by a group contract may potentially decrease the state's and local governments' costs to provide health benefits to their employees and dependents. The medical claims costs of the state's self-insured health plan are paid out of the State Employee Health Benefit Fund (Fund 8080).

Synopsis of Fiscal Effect Changes

LSC 130 0251-2 provides that the Superintendent of Insurance may apply, by rule, the bill requirements related to insurance agents, navigators, and in-person assisters to any additional entity or person delineated by the federal government to assist consumers or participate in exchange activities. The bill also prohibits any individual from acting as or holding himself or herself out to be an in-person assister unless that individual is either a licensed insurance agent certified to sell insurance through an exchange or a certified navigator.

The fiscal effects remain unchanged under the substitute bill.

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