SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 163

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

SB 163 would enact the Mandate Lite Health Benefit Plan Act, exclude agent commissions from the calculation of administrative costs associated with medical loss ratio (MLR), and define specially designed policies and exclude such policies from the definition of group sickness and accident insurance.

Mandate Lite Health Benefit Plan Act

The bill would define a "mandate lite health benefit plan" as an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than coverages for optometrist, dentist, or podiatrist services (KSA 40-2,100) and for reconstructive breast surgery (KSA 40-2,166). The plan could be issued on either a group or individual basis. Mandate lite health benefit plans would not be required to issue coverage for drugs; the bill, however, does specify drug coverages a plan could offer.

The bill would require such plans to:

- Contain the definitions of group or individual sickness and accident insurance with respect to major medical benefits and standard provisions or rights of coverage; and

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

- Provide insureds with written notice that one or more of the state-mandated benefits are not included in the plan.

The bill would provide that the definition of preexisting conditions could not be more restrictive than the definition of preexisting conditions normally used for the corresponding regular or group insurance contracts. Additionally, a mandate lite health benefit plan would be allowed to charge additional premiums for each optional benefit offered.

Medical Loss Ratio

Under the bill, portions of health insurance premiums paid by consumers that are passed through as (agent) commissions are not to be considered part of administrative expenses and would be excluded from all determination of the MLR calculations when totaling the ratio of premiums paid by a consumer used for claims versus administrative expenses for a policy. (To be excluded from MLR calculations, any portion of premiums identified as commissions must be paid to a nonemployee.) Instead, portions of premiums retained by an insurance company or its employees would be required to be considered as part of the MLR calculation as administrative related income.

Specially Designed Policies

The bill would define and allow specially designed policies to provide specific coverage of benefits or services that are not required to be included the mandate lite health benefit plans authorized by the bill. These stand-alone policies and coverages may include:

- Chiropractic plans;
- Acupuncture coverage plans;
- Holistic medical treatment plans;
- Podiatrist plans;

- Pharmacy plans;
- Psychiatric plans;
- Allergy plans; and
- Other plans or combinations of plans of accepted traditional and nontraditional medical practice.

The bill would define "specially designed policy" to mean an insurance policy that by design may not meet all or part of the definitions of group or individual sickness and accident insurance policy, and includes temporary sickness and accident insurance on a short-term basis. The bill would exclude specially designed policies from:

- Inclusion under the definition of group sickness and accident insurance, including as short-term policies;

- Continuation coverage provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA); and

- MLR calculations associated with individual sickness and accident insurance unless the calculation excludes any monthly administrative fee associated with the sale of such short-term policies.

Background

Since 1973, the Kansas Legislature has added new statutes to insurance law that mandate certain health care providers be paid for services rendered (provider mandates) and be paid for certain prescribed types of coverage or benefits (benefit mandates). Health insurance mandates in Kansas law do not apply to self-insurance health plans (subject to the federal Employment Retirement Income Security Act of 1974 [ERISA]). Provider mandates not specifically required for plans subject to the bill are chiropractors, psychologists, social workers, Advanced Practice Registered Nurses, and pharmacists. Excluded benefit mandates include newborn and adopted children, alcoholism, drug abuse, nervous and mental conditions, mammograms and pap smears, immunizations, maternity stays, prostate screening, diabetes supplies and education, dental care in a medical facility, off-label use of prescription drugs, and orally-administered anti-cancer medications (if the insurance plan or contract provides prescription drug coverage).

Proponents of the bill at the Senate Committee hearing included representatives of Bukaty Companies, Employee Benefits Professionals—Kansas City, and HSA Benefits Consulting. Written testimony was submitted by a representative of the Wichita Independent Business Association. The President of HSA Consulting indicated allowing mandate lite policies could give the state more health insurance options designed to meet the health needs and financial budgets of its citizens, shrink employees' and employers' health insurance allocation, reduce the number of the uninsured as a greater number of employees sign up for more affordable coverage, and provide employers with expendable cash for hiring more employees and paying higher salaries.

There were no opponents to the bill present at the Senate Committee hearing.

The fiscal note prepared by the Division of the Budget states the Kansas Insurance Department indicates enactment of the bill would increase costs, as the bill would create a new insurance plan to be regulated by the Department. However, the Department indicates the fiscal effect cannot be estimated, as it would be dependent on the number and type of “mandate lite” plans that would be created and issued by insurers doing business in Kansas. The Department is required to review and approve all plans that would be marketed and sold. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.