

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 742 - HB 1116

March 16, 2015

SUMMARY OF BILL: Directs the Commissioner of Finance and Administration to submit an amendment to the existing TennCare II waiver or a new waiver to authorize the use of personal health accounts (PHAs) by the end of October 2015. Requires each TennCare enrollee to receive a PHA for the purpose of paying for a portion of the enrollee's healthcare expenses.

The PHA shall be funded on a quarterly basis with an actuarially determined amount that is based on current fee-for-services average expenses after an appropriate risk adjustment. The enrollees will purchase a benefit coverage plan from options approved by the Bureau of TennCare that will range from a safety net of limited benefits to full-service benefit plans. The enrollee may use the full amount of the PHA to purchase comprehensive or partial coverage plans. Any amount of the PHA that is not used to pay plan rates may be used to spend on other healthcare related items. Any unused amount shall roll forward to the next quarter. Enrollees who are no longer eligible for medical assistance may use a portion of his or her balance towards healthcare expenses or to purchase health insurance. Unused funds will revert to the state after 12 months or on the death of an enrollee.

Enacts the *Healthcare Choice Act* which authorizes health insurers domiciled outside of the state to provide individual and small employer health benefits plans to the residents of the state if the same benefits are offered in its domiciliary state and it is compliant with all applicable laws, regulations, and requirements in its state; obtains a certificate of authority to do business as a foreign health insurer; and participates, on a nondiscriminatory basis, in the Tennessee life and health insurance guaranty association.

The Commissioner of Commerce and Insurance shall issue certificates of authority to a foreign health insurer after receiving a completed application and fee if the insurer meets the established requirements. All certificates of authority are valid for two years. Application and renewal fees are to be set at an amount to cover any administrative and enforcement costs. Establishes requirements for each individual and group health benefits plan issued by a foreign health insurer. Requires the Commissioner of Commerce and Insurance to establish grievance and independent claims review procedures with respect to claims by a healthcare provider or a covered person with which a foreign health insurer shall comply as a condition of issuing policies in the state.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Not Significant

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Other Fiscal Impact – The implementation of the personal health accounts within the TennCare program will be dependent on federal approval of a waiver amendment. Several aspects of the program are dependent on the waiver negotiations and the final version of the program which are unknown.

Any TennCare enrollees who choose the alternate coverage will no longer be calculated in the premium tax payments by the Bureau of TennCare to the state resulting in a decrease in state revenue. Based on a 10 percent reduction in premium tax payments, the state will realize a decrease in state revenue of \$37,000,000. The state funds (\$12,937,050) and federal funds (\$24,062,950) that would no longer be paid to the state will be shifted to fund the program.

Assumptions:

TennCare waiver to allow personal health accounts:

- Based on information provided by the Bureau of TennCare, submitting the required waiver will not significantly affect the workload of the department and can be accommodated within existing resources.
- If the federal Centers for Medicare and Medicaid Services (CMS) were to approve the waiver, the details of the program design and implementation would be developed prior to and during the waiver negotiation process which would ultimately determine the fiscal impact to the state; therefore the exact fiscal impact cannot be determined.
- Any individuals choosing the alternative coverage arrangement will no longer be part of the TennCare population for the purposes of calculating the current 5.5 percent HMO premium tax.
- The Bureau of TennCare pays the premium tax for its plans and receives a 65.035 percent federal match rate resulting in 34.965 percent of the total paid with state funds.
- If at least 10 percent of the TennCare enrollee population chose the alternative arrangement, the loss of premium tax revenue from the state would be approximately \$37,000,000, of which \$12,937,050 are state funds ($\$37,000,000 \times 0.34965$) and \$24,062,950 are federal funds ($\$37,000,000 \times 0.65035$).
- Pursuant to the provisions of the bill, the amount of allocation to the PHAs will be dependent on an actuarially determined amount that is based on current fee-for-services average expenses after an appropriate risk adjustment. Because this amount cannot reasonably be determined it is estimated that the state and federal funds that are not paying premium taxes will be shifted to fund the PHAs.

Healthcare Choice Act:

- Based on information provided by the Department of Commerce and Insurance, enforcement and administration of the bill will not significantly affect the current workload of the department.
- Applications submitted by foreign insurance companies will be reviewed by the same Department staff who reviews the current applications for certificates of authority.
- The provisions of the bill will require the Commissioner of Commerce and Insurance to develop a grievance procedure not currently in existence. This will be accomplished by referencing the current external review process.

- The foreign insurance company will be required to pay any required premium tax under current law and can be subjected to civil penalties for violations. Due to a number of unknown factors, the amount of revenue that may be generated as a result of this bill cannot be reasonably quantified.

IMPACT TO COMMERCE:

Other fiscal impact – Due to a number of unknown factors, the impact to commerce and jobs cannot reasonably be determined.

Assumptions:

- Depending on the personal health account program that is approved by the federal CMS, there could be varying degrees of impact on business expenditures and revenue to managed care organizations (MCOs), health care providers, pharmacies, and other health care related entities that currently provide services through the TennCare program. Due to a number of unknown factors, the impact cannot be reasonably quantified.
- Individuals choosing to purchase insurance from foreign insurers instead of Tennessee domiciled insurance companies as a result of the provisions of the bill will impact commerce and possibly jobs in the state. While an exact impact to commerce and jobs cannot reasonably be determined, it is estimated to be negative.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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