Rep. Bob Morgan

Filed: 4/4/2022

AMENDMENT TO HOUSE BILL 1465

AMENDMENT NO. _____. Amend House Bill 1465 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Health Insurance Coverage Premium Misalignment Study Act.

Section 5. Purpose. This Act is intended to enable the State to study possible misalignment in the Illinois health insurance marketplace that would produce increased premium or cost sharing for some consumers and drive some consumers into lower value qualified health plans or out of the marketplace altogether.

Section 10. Findings. The General Assembly finds that:

(1) Section 1402 of the Patient Protection and Affordable Care Act requires health insurance issuers to provide cost-sharing reductions to low-income marketplace consumers

below the 250% federal poverty level who choose a silver level plan; it also requires the United States Department of Health and Human Services to reimburse issuers for cost-sharing reductions. Cost-sharing reductions are important because they help low-income marketplace consumers afford out-of-pocket costs, including deductibles and copayments, and therefore keep them in the marketplace.

(2) On October 12, 2017, the federal government, through executive action, announced that it would be discontinuing cost-sharing reduction payments to issuers in the Patient Protection and Affordable Care Act marketplace. Illinois, like the majority of other states, took action to mitigate the losses that Illinois issuers would endure without the federal cost-sharing reduction payments by adopting a practice called "silver loading" or "cost-sharing reduction uncertainty cost" beginning in the 2018 plan year. Silver loading allows issuers to increase their silver plan baseline premiums to make up the costs lost from the missing federal cost-sharing reduction payments. Most of these premium increases are offset by higher advanced premium tax credits from the federal government.

(3) However, due to silver loading and resulting pricing of silver plans in the Illinois marketplace, it appears that the current metal-level premiums in the Illinois marketplace are misaligned and do not reflect coverage generosity of the plans. The fact that silver plans are now overpriced for enrollees ineligible for generous cost-sharing reductions has

driven some of those enrollees into non-silver (mostly bronze) plans with levels of cost sharing that are a worse match for their needs. In other words, Illinois marketplace consumers could be currently paying more than they should for low value plans and less than they should for high value plans.

Section 15. Premium misalignment study.

(a) The Department of Insurance shall oversee a study to explore rate setting approaches that may yield a misalignment of premiums across different tiers of coverage in Illinois' individual health insurance market. The study shall examine these approaches with a view to attempts to make coverage more affordable for low-income and middle-income residents. The study shall follow the best practices of other states targeted at addressing metal-level premium misalignment and include an Illinois-specific analysis of:

(1) the number of consumers who are eligible for a premium subsidy under the Patient Protection and Affordable Care Act (Pub. L. 111-148) and the relative affordability of the plans;

(2) if the plan is in the silver level, as described by 42 U.S.C. 18022(d), the relation of the premium amount compared to premiums charged for qualified health plans offering different levels of coverage, taking into account any funding or lack of funding for cost-sharing reductions and the covered benefits for each level of coverage; and

(3) whether the plan issuer utilized the induced demand factors developed by the Centers for Medicare and Medicaid Services for the risk adjustment program established under 42 U.S.C. 18063 for the level of coverage offered by the plan or any State-specific induced demand factors established by Department rules.

(b) The study shall produce cost estimates for Illinois residents addressing metal-level premium misalignment policy as studied in subsection (a) along with the impact of the policy on health insurance affordability and access and the uninsured rates for low-income and middle-income residents, with break-out data by geography, race, ethnicity, and income level. The study shall evaluate how premium realignment if implemented would affect costs and outcomes for Illinoisans.

(c) The Department of Insurance shall develop and submit, no later than January 1, 2024, a report to the General Assembly and the Governor concerning the design, costs, benefits, and implementation of premium realignment to increase affordability and access to health care coverage that leverages existing State infrastructure.

Section 105. The Illinois Insurance Code is amended by changing Section 355 as follows:

(215 ILCS 5/355) (from Ch. 73, par. 967)

Sec. 355. Accident and health <u>policies; provisions.</u>

~~policies-Provisions.)~~

(a) As used in this Section, "unreasonable rate increase" means a rate increase that the Director determines to be excessive, unjustified, or unfairly discriminatory in accordance with 45 CFR 154.205.

(b) No policy of insurance against loss or damage from the sickness, or from the bodily injury or death of the insured by accident shall be issued or delivered to any person in this State until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto have been filed with the Director; nor shall it be so issued or delivered until the Director shall have approved such policy pursuant to the provisions of Section 143. If the Director disapproves the policy form he shall make a written decision stating the respects in which such form does not comply with the requirements of law and shall deliver a copy thereof to the company and it shall be unlawful thereafter for any such company to issue any policy in such form.

(c) All individual and small group accident and health policies written in compliance with the Patient Protection and Affordable Care Act must file rates with the Department for approval. Rate increases found to be unreasonable rate increases in relation to benefits under the policy provided shall be disapproved. The Department shall provide a report to the General Assembly on or after January 1, 2023, regarding both on and off exchange individual and small group rates in

the Illinois market.

(d) A rate increase filed under this Section must be approved or denied within 60 calendar days after the date the rate increase is filed with the Department. Any rate increase that is not approved or denied by the Department shall automatically be approved on the 61st calendar day.

(e) No less than 30 days after the federal Centers for Medicare and Medicaid Services has certified the policies described in this Section for the upcoming plan year, the Department shall publish on its website a report explaining the rates for the subsequent calendar year's certified policies.

(Source: P.A. 79-777.)

Section 110. The Health Maintenance Organization Act is amended by changing Section 4-12 as follows:

(215 ILCS 125/4-12) (from Ch. 111 1/2, par. 1409.5)

Sec. 4-12. Changes in Rate Methodology and Benefits, Material Modifications. A health maintenance organization shall file with the Director, prior to use, a notice of any change in rate methodology, or benefits and of any material modification of any matter or document furnished pursuant to Section 2-1, together with such supporting documents as are necessary to fully explain the change or modification.

(a) Contract modifications described in subsections

(c)(5), (c)(6) and (c)(7) of Section 2-1 shall include all form agreements between the organization and enrollees, providers, administrators of services and insurers of health maintenance organizations.

(b) Material transactions or series of transactions other than those described in subsection (a) of this Section, the total annual value of which exceeds the greater of $100,000 or 5% of net earned subscription revenue for the most current twelve month period as determined from filed financial statements.

(c) Any agreement between the organization and an insurer shall be subject to the provisions of the laws of this State regarding reinsurance as provided in Article XI of the Illinois Insurance Code. All reinsurance agreements must be filed. Approval of the Director is required for all agreements except the following: individual stop loss, aggregate excess, hospitalization benefits or out-of-area of the participating providers unless 20% or more of the organization's total risk is reinsured, in which case all reinsurance agreements require approval.

(d) All individual and small group accident and health policies written in compliance with the Patient Protection and Affordable Care Act must file rates with the Department for approval. Rate increases found to be unreasonable rate increases in relation to benefits under the policy provided shall be disapproved. The Department shall provide a report to

the General Assembly on or after January 1, 2023, regarding both on and off exchange individual and small group rates in the Illinois market.

(e) A rate increase filed under this Section must be approved or denied within 60 calendar days after the date the rate increase is filed with the Department. Any rate increase that is not approved or denied by the Department shall automatically be approved on the 61st calendar day.

(f) No less than 30 days after the federal Centers for Medicare and Medicaid Services has certified the policies described in this Section for the upcoming plan year, the Department shall publish on its website a report explaining the rates for the subsequent calendar year's certified policies.

(g) As used in this Section, "unreasonable rate increase" means a rate increase that the Director determines to be excessive, unjustified, or unfairly discriminatory in accordance with 45 CFR 154.205.

(Source: P.A. 86-620.)".