

May 20, 2010

The Honorable Kevin Yoder, Chairperson
House Committee on Appropriations
Statehouse, Room 351-S
Topeka, Kansas 66612

Dear Representative Yoder:

SUBJECT: Fiscal Note for HB 2750 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2750 is respectfully submitted to your committee.

HB 2750 would clarify subrogation rights and coordination of benefits in the State Employee Health Plan. The bill specifies that the state health care benefits program would have the right to first recovery on any amounts recovered by litigation, arbitration, mediation, and settlement. Payment for benefits under the state health care benefits program would be secondary to any other insurance coverage or third party with a legal obligation to pay such medical expenses to or on behalf of the participant, or the participant's spouse or the participant's dependents.

The Kansas Health Policy Authority (KHPA) states that coordination of benefits with other group health plans is already done for the State Employee Health Plan (SEHP) by each of the third party administrators hired by the plan. In addition, claims are currently screened for possible coverage under applicable workers compensation insurance and personal injury protection coverage of auto insurance. The SEHP follows the National Association of Insurance Commissioner's (NAIC) model that provides guidance on the order of benefit determinations for any member covered under multiple group health plans. The requirements of HB 2750 would place the SEHP as secondary to all other coverage including individual member purchased health plans and limited benefit plans such as cancer insurance. As these plans are not currently required to coordinate benefits, it would be the member's responsibility to obtain the payment and file the secondary claims. The SEHP does not track employee purchased limited benefit plans so it would be difficult to obtain this information unless the health care provider or patient provides it to SEHP. In addition, the bill does not recognize the order of benefit determination that is industry accepted in all states. No provisions are included to cover situations where the court has ordered one party to maintain dependent health insurance coverage. Court orders are used today in some cases as a manner to set the order of benefit determination for dependents of divorced or unmarried parents. For members covered under multiple group health plans KHPA

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foresees difficulty with other self funded plans and plans not subject to Kansas law being unwilling to pay as primary if the NAIC model would place them in a secondary position. This would result in delays in payments to the health care providers as the plans try to resolve the dispute. If the matter could not be resolved, the member ultimately would be held responsible for paying despite having coverage under multiple group health plans.

The SEHP would need to have the third party administrators for the health plans change the manner in which they administer and collect information regarding other health plan coverage from members. The administrators would need to set a method for collecting information on all accidents for screening for possible other party liability beyond what is currently being done. Provider contracts may have to be amended to allow the ability to process retroactive adjustments to collect refunds from providers for claims that should be paid by other parties. HB 2750 would give the SEHP the right to recover from any settlements or judgments with no time limit on how far back to go to collect. The bill does not identify what happens in the event that the settlement funds have been exhausted by the member and claims were not reimbursed. Administrators could be looking at injuries resulting from accidents that occurred many years in the past. The SEHP could begin pursuing lawsuits against family members for recoveries.

The SEHP along with the third party administrators for the plan would need to determine whether any outside resources would be required to implement HB 2750. The bill cannot be implemented within the current staffing and operating expenditure levels. The SEHP would require additional staffing and operating expenditures to cover the start up cost. KHPA estimates the need for at least one additional health plan operations staff member and two attorneys. The third party administrators would also need additional administrative fees to cover their expenses. It is possible that an outside auditor could be necessary and the cost associated with that auditor would need to be reimbursed. KHPA did not submit a cost estimate for these additional expenses and has not estimated how long it would take before the plan recoveries would be sufficient to cover the additional expenses. However, based upon discussions with Claims Technologies the average subrogation collection would eventually be \$5 per member. As of April 30, 2010 the SEHP had 97,260 members. Therefore, passage of HB 2750 could eventually result in plan savings of \$486,300 (97,260 x \$5) per year. After covering the additional expenditures, a portion of these savings would ultimately translate into lower premiums for plan participants but would not have a fiscal effect on the state budget.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Scott Brunner, KHPA