

SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2053

As Amended by House Committee on Insurance

Brief*

HB 2053, as amended, would amend law in the Insurance Code governing specially designed policies and short-term policies to update references to short-term limited duration (STLD) policies and require insurance companies issuing STLD policies to disclose specified information in its contracts and application material.

Under current law, “short-term” means an insurance policy period of 6 or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification. The bill would amend this definition to update the term to “short-term limited duration” and would specify a policy period of less than 12 months and a policy that offers renewal or extension periods up to a maximum policy period of 36 months total in duration.

The bill would remove language specifying the benefits or services that could be included in specially designed policies. The definition of “specially designed policies” would be updated by the bill to provide that these policies are issued on a short-term, limited duration basis.

The bill would also require insurance companies issuing STLD health insurance to include the following statement, printed in a 14-point font, in its contracts and application materials for policies having a coverage start date on or after January 1, 2019, whether for initial enrollment, renewal, or extension:

*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>

This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime limits and/or annual dollar limits on health benefits.

If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.

The bill would be in effect upon publication in the *Kansas Register*.

Background

Executive Order. On October 12, 2017, the President issued Executive Order (EO) 13813 (“Promoting Healthcare Choice and Competition Across the United States”), which, among other things, encourages expanded access to association health plans (AHP) and the expanded availability of STLD insurance. [Note: Legislation pertaining to AHPs was enacted in 2019 HB 2209. This legislation was introduced in a package of six bills, House Bills 2054-2059.]

Bill Information. HB 2053 was introduced by the House Committee on Insurance at the request of Representative Vickrey. In the House Committee hearing on February 4, 2019, an explanation of the federal rule effective October 2, 2018, and requirements for states’ conformity was generally outlined by a representative of the Revisor of Statutes Office.

Prior to the Committee hearing, it was noted a representative of Opportunity Solutions Project provided proponent testimony at a January 2019 House Committee hearing on both HB 2053 and the AHP legislation, stating small business owners and the self-employed need affordable insurance options. A representative of the Kansas Association of Insurance Agents also provided written-only neutral testimony on the STLD and AHP legislation. In the February 4, 2019 hearing, a representative of the Kansas Insurance Department provided neutral testimony outlining the requirements applicable to STLD plans under the federal final rule and the requirements applicable to short-term policies under current Kansas law. The representative stated, by following federal guidance and adjusting Kansas statutes to more easily accommodate federal law on short-term plans, Kansas would be in a position to respond to market and regulatory changes much faster. Written-only opponent testimony was provided by a representative of the American Cancer Society Cancer Action Network (ACS CAN). The House Committee did not take action on HB 2053 during the 2019 Session and the bill remained in Committee.

In the House Committee hearing on January 28, 2020, representatives of Blue Cross and Blue Shield of Kansas City (BCBSKC), the Kansas Chamber, a benefits consulting owner and legislative chair for the Kansas Association of Health Underwriters, and an insurance agent and owner of insurance agencies testified in support of the bill. Proponents generally stated STLD plans offer an affordable option to persons between jobs or who have other short-term needs for health insurance. The BCBSKC representative stated the company has seen demand for these plans in the individual market and it is offering STLD major medical plans. Some proponents suggested amendments to remove language in the disclosure statement referencing the ACA and corresponding penalty (it was noted STLD plans are not considered individual coverage under the ACA). One proponent requested restoring language pertaining to specially designed policies. Written-only proponent testimony was provided by Opportunity Solutions Project.

Opponent testimony was provided by representatives of the ACS CAN, American Heart Association, Leukemia and Lymphoma Society, and National Multiple Sclerosis Society. Opponents generally stated STLD plans discriminate against persons with pre-existing conditions, as these policies are permitted to take into account an individual's pre-existing condition or health status when issuing coverage. Opponents also noted the plans do not provide comprehensive coverage, do not have to provide for Essential Health Benefits (a requirement on ACA-compliant plans), and will likely attract younger and healthier individuals, which could divide the individual marketplace risk pool in Kansas. Written-only opponent testimony was provided by representatives of the the American Lung Association, the Kansas Society of Clinical Oncology and the Association for Clinical Oncology, and the National Psoriasis Foundation.

The House Committee amended the disclosure requirement in the bill to specify this requirement would apply to STLD policies having a coverage start date on or after January 1, 2019, and to remove language stating the coverage under STLD policies would not constitute "minimum essential coverage."

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have no fiscal effect.