

SPONSOR: Rep. Schwartzkopf & Rep. Longhurst & Rep. Mitchell & Rep. Baumbach & Rep. Bentz & Rep. Griffith & Rep. Seigfried & Rep. Ramone & Sen. McBride & Sen. Poore & Sen. Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 176

AN ACT TO AMEND TITLES 16 AND 18 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH INSURANCE INDIVIDUAL MARKET STABILIZATION REINSURANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 99, Title 16, of the Delaware Code by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 9903. Duties and authority of the Commission

(g) The Commission shall establish the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund and the Commission shall have all of the following responsibilities.

(1) To provide reinsurance to carriers that offer individual health benefit plans in the State.

(2) Said reinsurance must meet the requirements of a waiver approved under § 1332 of the Affordable Care Act [42 U.S.C. § 18001 *et seq*.].

(3) The reinsurance fund must operate under the supervision and control of the Commission, and is funded pursuant to 18 Del. C. § 8703.

(h) For purposes of funding and administering the reinsurance program outlined in subsection (g) of this section, the fund shall be made up of all of the following:

(1) Any pass-through funds received from the federal government under a waiver approved under § 1332 of the Affordable Care Act [42 U.S.C. § 18001 *et seq*.].

(2) Any funds designated by the federal government to provide reinsurance to carriers that offer individual health benefit plans in the State.

(3) Any funds designated by the State pursuant to 18 Del. C. § 8703 to provide reinsurance to carriers that offer individual health benefit plans in the State.

(i) To carry out its responsibilities in administering the program outlined in subsection (g) and funded pursuant to subsection (h) of this section, the Commission shall promulgate regulations for purposes of all of the following:

HD : RK : TEH
1031500133
Released: 06/03/2019 01:24 PM

(1) Establishing procedures for the handling and accounting of program assets and monies, as well as for an annual fiscal reporting to the Commission, Insurance Commissioner and General Assembly.

(2) Annually establishing procedures and parameters for reinsuring risks, including all of the following:

a. An attachment point.

b. A coinsurance rate.

c. A coinsurance cap.

(3) Establishing procedures and standards for carriers to submit claims to be reinsured under the program.

(4) Establishing procedures for selecting an administering contractor and setting forth the power and duties of the administering contractor.

(5) Establishing procedures for quarterly reporting or annual reporting, or both, of data under the § 1332 waiver to demonstrate that the waiver remains in compliance with the scope of coverage, affordability, comprehensiveness and deficit requirements.

(6) Establishing procedures for providing each year the actual Second Lowest Cost Silver Plan premium under the Affordable Care Act's [42 U.S.C. § 18001 *et seq*.] § 1332 waiver and an estimate of the premium as it would have been without the waiver.

(7) Providing for any additional matters necessary for the implementation and administration of the reinsurance program.

(8) Submitting an annual report to the Governor and General Assembly, in consultation with the Department of Health and Social Services and the Department of Insurance.

Section 2. Amend Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 87. THE DELAWARE HEALTH INSURANCE INDIVIDUAL MARKET STABILIZATION REINSURANCE PROGRAM

§ 8701. Definitions.

As used in this chapter, unless the context clearly indicates a different meaning, the following words and phrases shall have the meaning ascribed to them in this section:

(a) "Affordable Care Act" means the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 (2010).

(b) "Assessment" means any payment required to be made under § 8703 of this chapter.

(c) "Carrier" means any entity that provides health insurance in this State. For the purposes of this chapter, carrier includes an insurance company, health service corporation, health maintenance organization, managed care organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(d) "Commissioner" means the Insurance Commissioner of the State of Delaware.

(e) "Commission" and "DHCC" mean the Delaware Health Care Commission created pursuant to 16 Del. C. § 9902.

(f) "Department" means the Delaware Department of Insurance.

(g) "Individual Health Benefit Plan" means any policy offered in the individual market that is subject to the single risk pool requirements of § 1312(c)(1) of the Affordable Care Act.

(h) "Program" means the Delaware Health Insurance Individual Market Stabilization Reinsurance Program created by 16 Del. C. § 9903(g).

§ 8702. Applicability and Scope.

(a) This chapter shall apply to the following licensees:

(1) Any carrier, as defined under section 8701 of this chapter.

(2) Any other person or entity subject to regulation by the State that provide either of the following:

a. Products that are subject to the fee under § 9010 of the Affordable Care Act.

b. Products that may be subject to an Assessment by the State under this chapter.

(b) This chapter shall not apply to plans of health insurance or health benefits designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa *et seq*.), known as Medicare, Medicaid; Chapter 52 of Title 29 of the Delaware Code; or any other similar coverage under state or federal governmental plans.

§ 8703. Delaware Health Insurance Individual Market Stabilization and Reinsurance Program Assessment.

(a) The purpose of this section is to establish a funding mechanism for the Delaware Health Insurance Individual Market Stabilization and Reinsurance Program created by 16 Del. C. § 9903(g).

(b) Following successful approval of Delaware's § 1332 waiver application under the Affordable Care Act by the Centers for Medicare and Medicaid Services and beginning in Calendar Year 2020, any carrier subject to this chapter shall be assessed 2.75% annually on all amounts used to calculate the entity's premium tax liability or the amount of the entity's premium tax exemption value for the previous calendar year.

(c) Each carrier, entity, or person subject to the Assessment pursuant to this section shall submit payment to the Delaware Department of Insurance on or before March 1 of each year.

(d) Upon receipt of the funds paid to the Department pursuant to subsection (c) of this section, the Commissioner shall remit the total amount to the Commission to be held on reserve for the funding and administering of the Program in accordance with 16 Del. C. § 9903(g).

(e) In the event that the federal government reinstates the Health Insurance Providers Fee defined under § 9010 of the Affordable Care Act for a particular calendar year, the State shall reduce its own Assessment for the corresponding calendar year as defined in subsection (b) of this section to 1% on all amounts used to calculate an entity's premium tax liability or the amount of the entity's premium tax exemption value for the previous calendar year.

(f) In the event Delaware's § 1332 waiver under the Affordable Care Act is invalidated, revoked, or expires by the Centers for Medicare and Medicaid Services, Delaware may no longer collect the Assessment defined under this section.

(g) The State of Delaware may not hold more than 5 years of operating and administrative funds to cover the Program. In the event collections exceed that amount, the State must notify the carriers that the following year's Assessment will be waived.

(h) Funding deposited into the Delaware Health Insurance Individual Market Stabilization Reinsurance Fund shall be used by the Department of Health and Social Services, in conjunction with the Department, to operate and administer the Fund, and such funding shall also be used by the Department of Health and Social Services to secure federal matching funds available through §1332 of the Affordable Care Act.

(i) In the event that funding is insufficient to cover the administration and operations of the Program, the Department of Health & Social Services may suspend the program until funding is identified and secured.

Section 3. Effective Date. This Act shall take effect upon enactment.

SYNOPSIS

This Act creates the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund (the "Program"). The Program will be administered by the Delaware Health Care Commission in order to provide reinsurance to health insurance carriers that offer individual health benefit plans in Delaware. The Program will be funded with pass-through funds received from the federal government under the Affordable Care Act, funds provided by the Federal Government for reinsurance, and through a 2.75% annual assessment based on insurance carrier's premium tax liability.