

Legislative Analysis



PUBLIC SCHOOL BENEFIT PLAN: MAKE CLAIMS HISTORY AVAILABLE

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House Bill 4274 (Substitute H-1)
Sponsor: Rep. Barb Vander Veen
Committee: Education

First Analysis (5-25-05)

BRIEF SUMMARY: The bill would require the disclosure of a benefit plan's claims history under certain circumstances when the plan sponsor is a public school employer.

FISCAL IMPACT: There would be no fiscal impact to either the state or local units of government from this bill.

THE APPARENT PROBLEM:

Employee health benefits are a major expense for school districts. Public school teachers collectively bargain with local school boards and school administrators for their health insurance coverage. Generally, teachers and administrators consider the trade-off between salaries and benefits when they negotiate, forgoing one in order to get more of the other.

Currently, 57 percent of the public school teachers in Michigan who belong to the Michigan Education Association (the larger of the state's two teacher unions) have health insurance coverage provided by the Michigan Education Special Services Association, or MESSA, which is an affiliate of the MEA. MESSA can only serve MEA members. Its benefit plan is generally thought to offer more coverage than nearly any other health plan in the state. Most other teachers in the MEA, about 40 percent, have health insurance provided by Blue Cross Blue Shield of Michigan, also acknowledged as very full and complete benefit coverage.

Critics of the current system say that other health insurers seldom bid when school officials invite alternative health care plans during collective bargaining. They say they cannot compete with MESSA because they do not know how much risk they must be prepared to underwrite in a school district. They do not know the risk because MESSA pools its members' risk by spreading it across five regions in the state and does not release the claims experience of its insureds by school district. If competitors knew the claims experience of a group of covered beneficiaries they then could quote a rate for coverage without incurring as much financial risk, or if the risk was too great, they could choose to forgo the opportunity to bid altogether.

[In response, MESSA representatives point out that fully 82 percent of the organization's member school districts are very small—too small to attract private insurers who could

withstand the risk of one or two catastrophic claims in such a small pool and offer similar benefits at a lower cost. In order to make comprehensive and affordable coverage available to these small groups of school personnel, MESSA pools the small groups, reconfiguring them into five large zones, so that risk can be shared within that area or zone. The cost of benefits varies between each zone.]

Critics say that if a school district were able to solicit competitive bids for school employee benefit plans, the competition would require rival benefit plan providers to keep costs down in order to win the contract. School districts then would have the opportunity to choose lower cost options and reduce the total cost of health care benefits for school employees. School administrators, however, say they do currently not know if their districts can provide equivalent benefit packages through more cost-effective plans because they do not have access to the claims experience of district employees.

In order to increase competition and lower costs in the health care market, some have argued that MESSA should reveal claims history of public school employers so other insurers can make informed choices to offer bids.

THE CONTENT OF THE BILL:

House Bill 4274 would amend the Third Party Administrator Act to require the disclosure of a benefit plan's claims history under certain circumstances.

The bill specifies that if the sponsor of a benefit plan is a public school employer, then the service contract for the plan must provide that the claims history under the contract be made available upon request to the public school employer. The claims history to be provided would have to include all of the following information for the benefit plan, on a school district basis, for the immediately preceding 12-month period:

- 1) the total number of individuals covered;
- 2) the total number of claims paid;
- 3) the total number of claims pending, and the total dollar amount of those claims;
- 4) the claims experience data by coverage component; and,
- 5) any other health claims data necessary for the public school employer to obtain competitive bids for other third party administrator services, or other health care coverage.

The bill further specifies that information under this subsection could not disclose names or personal data that might reveal the identity of a covered individual.

Under the bill, "public school district" would be defined to mean an intermediate school district, local act school district, public school academy, or school district as those terms are defined in sections 4, 5, and 6 of the Revised School Code. "Public school employer" would be defined to mean that term as it is defined in section 1 of Public Act 336 of 1947 [which defines the term to mean a public employer that is the board of a school district,

intermediate school district, or public school academy; is the chief executive officer of a school district in which a school reform board is in place under part 5A of the Revised School Code; or is the governing board of a joint endeavor or consortium consisting of any combination of school districts, intermediate school districts, or public school academies].

Finally, currently under the law a third party administrator (sometimes referred to as a TPA) must provide for the confidentiality of personal data that identifies an individual covered by a plan, and the law describes instances when a TPA can and cannot disclose records. Generally, the release of personal information requires the written consent of the individual covered by a plan. The bill specifies that this section concerning confidentiality would not apply to information disclosed as required by section 31 [the new section that would be added by House Bill 4274].

MCL 550.934

ARGUMENTS:

For:

Those who support this legislation argue that making the health claims history of public school employees available to public school employers will bring competition to the public school health care insurance market where little exists today.

One critic of the current system is the Mackinac Center for Public Policy. In its report entitled "The Six Habits of Fiscally Responsible Public School Districts" authored by Johnson and Moser (December 2002), the organization claims that "even though health insurance costs have been rising faster than inflation nationwide over the past 20 years, these costs can be controlled through a few effective management techniques. There are two basic issues to consider for effectively managing employee health benefits. First is the structure of the benefits themselves (benefit design). The second is the company that will administer the benefit program. Without attending to both of these costs factors, public school districts can easily find their budgets unnecessarily bloated."

The report says, "Once a school district decides upon a benefit design, it must select the insurance provider and/or 'third party administrator' of the insurance benefits. . . . School districts should solicit competitive bids for the insurance provider and the third-party administrator, if needed, among the various insurance providers available. Currently, many school districts almost blindly grant MESSA a contract to administer benefits, rather than opening up the process for competitive bidding. If competitive bidding were implemented, there certainly would be costs savings. According to an insurance consultant who once worked for MESSA but who now advises the Mackinac Center, districts that have switched from MESSA to other insurance carriers have saved from six percent to 28 percent on the cost of providing identical coverage to their employees, which has translated to savings of as much as \$500,000 per year."

Proponents of the legislation point-out that the claims history called for in the bill is similar to that provided by Blue Cross and Blue Shield of Michigan and any other

reliable health care benefits administrator. With the claims history made public, other insurers would know how much medical risk they might assume if awarded the contract, and could bid on the health care benefits offered to school employees during collective bargaining. When the school district has competing bids, it is more likely to save money, or at least slow the increase in health care costs. In that way, more money can be redirected to increase salaries, or to enhance instructional classroom practices, such as reducing class size.

Response:

Some people have recommended that the legislation be amended to require MESSA to provide claims history by zone or region, rather than by school district. If the health insurance claims history of teachers and other school employees were provided by region, then other insurers could know enough to offer competitive bids. The bill as currently written would very likely violate norms of patient privacy, since the experience of individual school employees could be deduced from a school district's claims experience. If the claims experience is provided by zone, or region, employees' privacy could be protected, while at the same time other insurers would be able to compete for business.

Against:

Those who oppose this legislation, including the state Office of Financial and Insurance Services, argue it will increase health care costs and likely reduce covered health care benefits for both small and large groups of employees. OFIS points out that most of the school districts in the MESSA health insurance plans enroll fewer than 100 employees. If the districts that believed they would have better than average claims experience left the MESSA pool, premiums for those that remained would increase. However, OFIS warns, school districts that leave a community rated pool like MESSA with the expectation of lower rates might not actually end up paying less. This is because a school district bargaining unit that left the MESSA pool but was too small to be experience rated on its own would not be eligible for the protections (such as guaranteed renewability, rate bands, and rating constraints) of the Small Employee Market Reform Act. OFIS says that act defines group size based on the total number of employees in the whole employer group not based on a small subset of the group, as teachers would be in a school district plan. So even though the teachers group would be small, OFIS suggests, they would lose small group protections because of the size of the entire district employee pool.

OFIS says that being part of a large MESSA group and pooled together allows smaller groups to maintain rate stability through the use of MESSA's rate stabilization reserve, or RSR. The use of the RSR enables the school districts to more effectively budget for their health insurance costs from one year to the next. In contrast, a small group that left MESSA could receive a low rate one year because it had good experience, but if one or two employees within the group experienced major medical problems, the school district would be faced with a dramatic rate increase based on that experience the very next year. Consequently, the school district could not rely on predictable or stable rates from one year to the next. As health care costs have risen, MESSA has been able to use the RSR to help mitigate the effects of the increases on rates (smaller co-pays and employee contributions).

Against:

OFIS also points out that "this legislation interferes with the collective bargaining process that is so vital to the balance maintained in the educational system statewide." They continue, "public school systems negotiate health care benefit packages with unions that represent their employees. During that negotiation process, the schools have the opportunity to choose the health benefit plan they believe benefits themselves and the employees the most. Competition among the various health plan carriers takes place during that process as the negotiators for the public school seek to find the best possible plan for the best price." For example, according to committee testimony, since 1997 MESSA has gained 362 groups but also lost 68 groups. OFIS continues, "fostering competition in this manner works to everyone's advantage. However, the changes proposed in this legislation may make competition work to the disadvantage of all members since it would serve to encourage the members groups that perceive they have had better than average claims experience to leave the larger group, which could increase premiums for those that remain without assuring lower costs for those that leave."

Response:

The bill would not affect collective bargaining: it leaves decision making where it is now, with the local school board and the school employees. What it will do is provide more and better information for the parties to use in collective decision making. It could provide the opportunity for reducing costs for health care benefits (and making those dollars available for other classroom-related purposes). However, if there are no savings from making a change, negotiators can take that into account in reaching an agreement.

POSITIONS:

The Michigan Association of School Boards supports the bill. (5-18-05)

The Michigan Small and Rural Schools support the bill. (5-11-05)

The Michigan Elementary, Middle, and Secondary School Principals support the bill. (5-11-05)

The Tri-County Alliance (superintendents in Oakland, Wayne, and Macomb counties) supports the bill. (5-11-05)

The Michigan Chamber of Commerce supports the bill. (5-18-05)

The Michigan AFL-CIO supports the bill. (5-11-05)

The following intermediate school districts indicated support for the bill at committee meetings on 5-11-05 and 5-18-05: Calhoun, Oakland, Muskegon, Ottawa, Kalamazoo, Macomb; Hillsdale, Jackson, Lenawee, Monroe, Washtenaw, and the Wayne Regional Education Services Association.

The following local school districts indicated support for the bill at committee meetings on 5-11-05 and 5-18-05: Pewamo-Westphalia Schools, DeWitt Public Schools, Detroit Public Schools, East Grand Rapids Schools, and Mattawan Consolidated Schools.

The Michigan Education Special Services Administration (MESSA) opposes the bill. (5-18-05)

The Michigan Education Association opposes the bill. (5-18-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.