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BILL ANALYSIS

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Senate Bill 993 (as introduced 6-12-14)
Sponsor: Senator Jim Marleau
Committee: Insurance

Date Completed: 9-22-14

CONTENT

The bill would enter Michigan into the "Interstate Health Care Compact", which would do the following:

-- Allow each member state, within its state, to suspend the operation of all Federal laws and regulations regarding health care that were inconsistent with the laws and regulations adopted by the member state.
-- Give each member state the right to Federal money up to an amount equal to its "member state current year funding level" for each Federal fiscal year.
-- Create the Interstate Advisory Health Care Commission and require it to collect information to assist the member states in their regulation of health care.
-- Require the member states to take action to secure the consent of Congress to the Compact "in order to return the authority to regulate health care to the member states".

The Compact would be effective when it was adopted by at least two member states and received the consent of Congress.

Suspension of Federal Laws

The Compact would allow each member state, within its state, to suspend by legislation the operation of all Federal laws, rules, regulations, and orders regarding health care that were inconsistent with the laws and regulations adopted by that member state pursuant to the Compact. Federal and state laws, rules, regulations, and orders regarding health care would remain in effect unless a member state expressly suspended them. For any Federal law, rule, regulation, or order that remained in effect in a member state after the effective date of the Compact in the state, that state would be responsible for the associated funding obligation in its state.

Federal Funding

Each Federal fiscal year, every member state would have the right to Federal money up to an amount equal to its member state current year funding level for that fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under the Compact. The funding would not be conditional on any action of a member state or its adoption of any regulation, policy, law, or rule.

By the start of each Federal fiscal year, Congress would have to establish an initial member state current year funding level for each member state, based upon reasonable estimates.

The final member state current year funding level would have to be calculated, and funding would have to be reconciled by Congress based upon information provided by each member state and audited by the U.S. Government Accountability Office.

"Member state current year funding level" would mean the member state base funding level multiplied by the member state current year population adjustment factor (as defined in the Compact) multiplied by the current year inflation adjustment factor (as defined in the Compact).

"Member state base funding level" would mean a number equal to the total Federal spending on health care in the member state during Federal fiscal year (FY) 2010. By the Compact's effective date in a member state, the state would have to determine its base funding level and that number would be binding. The preliminary estimate of member state base funding level for Michigan would be $29,466,000,000.

Interstate Advisory Health Care Commission

The Compact would establish the Interstate Advisory Health Care Commission, which would consist of members appointed by each member state through a process to be determined by each member state. A member state could not appoint more than two members to the Commission, and could withdraw from the Commission at any time. Each Commission member would be entitled to one vote. No action of the Commission would be binding unless approved by a majority of its total membership. The Commission would have to meet at least once a year.

The Commission would have to collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. The Commission would have to make the information and data available to the legislatures of the member states. No member state could disclose to the Commission the health information of an individual, and the Commission could not disclose that information.

The Commission could study issues of health care regulation that were of particular concern to the member states, and could make nonbinding recommendations to them.

The Commission would have to be funded by the member states as agreed to by them. It would have the responsibilities as conferred upon it by action of the legislatures of the member states. The Commission could not take any action within a member state that contravened any state law of that member.

Adoption & Approval; Fundamental Purposes

The Compact would be effective on its adoption by at least two member states and consent of Congress. The Compact would be effective unless Congress, in consenting to it, altered the Compact's fundamental purposes, which would be:

-- To secure the right of the member states to regulate health care in their respective states pursuant to the Compact and to suspend the operation of any conflicting Federal laws, rules, regulations, and orders within their states.
-- To secure Federal funding for member states that chose to invoke their authority under the Compact, as prescribed above.

Any state could join the Compact after the date Congress consented to it, by adoption into law under its state constitution.

Amendment & Withdrawal

The member states, by unanimous agreement, could amend the Compact without the prior consent or approval of Congress. Any amendment would be effective unless Congress disapproved it within one year.

Any member state could withdraw from the Compact by adopting a law to that effect, but no withdrawal could take effect until six months after the governor of the withdrawing state notified the other member states of the withdrawal. A withdrawing state would be liable for any obligations that it incurred before the date on which its withdrawal became effective.

The Compact would be dissolved when all but one of the member states withdrew.

"Health Care"

The Compact would define "health care" as care, services, supplies, or plans related to the health of an individual. The term would include the following:

-- Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body.
-- Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.
-- An individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the U.S. Department of Defense and the U.S. Department of Veterans Affairs, or provided to Native Americans.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would enact the Interstate Health Care Compact which, with the permission of Congress, would allow the states to regulate health care (in particular insurance) independently of Federal laws and regulation. Each state in the Compact, subject to Congressional approval, would receive the estimated current Federal spending on health care in its state, updated for population and inflation, to be used to help support health coverage in the state. The bill estimates that Michigan's share would be just under $29.5 billion, the vast majority of which would reflect Federal spending on Medicare and Medicaid for Michigan residents.

The fiscal impact of this legislation, if enacted and supported by the Federal government, is unknown. The states in the Compact would have greater flexibility to manage health care for Medicare and Medicaid recipients, which would likely lead to efficiencies. It should be noted that any additional costs or savings would be completely State costs or savings. At present the marginal savings/cost of Medicare for the State is 0%, the marginal savings/cost for traditional Medicaid is about 35.0%, and the marginal savings/cost for expansion Medicaid is 0%. Under the legislation, the marginal savings/cost for the State would be 100.0%. Therefore, to the extent that efficiencies occurred, the State would see considerable savings. On the other hand, if costs increased, State expenditures would escalate considerably.

The State at present has begun a voluntary waiver program for those dually eligible for Medicare and Medicaid. While this waiver program does not precisely equate to what is proposed in the legislation, it does present a situation where the State has greater

programmatic and fiscal responsibility for services traditionally paid by the Federal government through Medicare. It is too early at this point to judge whether the "dual eligible" waiver will lead to cost savings, but there is reason to expect efficiencies from coordinating care formerly paid separately by Medicare and Medicaid through a managed care model. This approach, if used on a larger scale assuming passage of the legislation, could lead to the sort of efficiencies that would reduce costs, with all savings accruing to the State. That potential for savings, of course, still must be weighed against the possibility of increased costs, which would be 100% State costs.

Fiscal Analyst: Steve Angelotti