



SPONSOR: Sen. Blevins & Rep. Schooley & Rep. Keeley
Sens. Bushweller, Ennis, Henry, Sokola & Sorenson;
Reps. Barbieri, George, Gilligan, Jaques, Kowalko, Miro,
Mitchell, Walker, Willis & Bolden

DELAWARE STATE SENATE
146th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 56

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH SERVICE
CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 WHEREAS, Delaware courts have recognized that the Delaware Department of Insurance properly applies the
2 statutory criteria outlined in Title 18, Section 5003(d)(1) to any proposed affiliation or transaction between a Delaware
3 health service corporation and any other insurer that affects control of the health service corporation; and

4 WHEREAS, the Attorney General has substantial common law and statutory authority with respect to any of the
5 aforementioned affiliations or transactions, including but not limited to Title 29, Ch. 25, subch. III; and

6 WHEREAS, the Department of Insurance and Attorney General must consider a number of factors in determining
7 whether to approve such affiliations or transactions, including whether such transactions are prejudicial to the interests of
8 Delaware policyholders; and

9 WHEREAS, insurers in other states are managing state CHIP buy-in programs similar to that created by 16 Del.C.
10 § 9909(j);

11 NOW THEREFORE:

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

13 Section 1. Add a new Section 6310 to Title 18 of the Delaware Code, which shall read as follows:

14 “§ 6310. Affiliations Involving Health Service Corporations

15 (a) With respect to any proposed change of control affiliation or transaction between (i) a health service
16 corporation licensed under this Chapter and (ii) any insurer that administers a Children’s Health Insurance program buy-in
17 program (“the insurer”), the Commissioner shall not approve the transaction or affiliation unless the affiliation will result in
18 the Delaware-licensed health service corporation offering an insurance plan with the same benefits and eligibility criteria as

19 the Delaware program created under 16 Del.C. § 9909(j), with monthly premiums similar to the premiums offered in the
20 state where the insurer administered a CHIP buy-in program prior to the affiliation or transaction.

21 (i) With respect to states where the premiums charged by the insurer for the CHIP buy-in program vary
22 according to income, the premiums for similar income ranges in Delaware shall be the same as the premiums
23 charged in the state where the insurer administered a CHIP buy-in program prior to the affiliation or transaction.

24 (ii) With respect to states where free CHIP enrollment is offered at higher income levels than it is offered
25 in Delaware, the premiums charged under the plan required by this Section to children who would have been
26 eligible by virtue of income for free coverage in the state where the insurer administered a CHIP buy-in program
27 prior to the affiliation or transaction shall be actuarially consistent with premiums charged for higher income
28 brackets.

29 (iii) The specific premiums to be initially charged under this Section shall be approved by the
30 Commissioner as part of the approval for the transaction or affiliation required by this Section.

31 (iv) The plan offered pursuant to this Section shall offer to subscribers the same network of health care
32 providers that is offered to subscribers of the Delaware-licensed entity's standard health insurance plan.

33 (b) For purposes of this Section, a "change of control affiliation or transaction" is any affiliation or transaction that
34 will ultimately result in any change in effective control of a health service corporation, either as described by the applicant
35 or as determined by the Commissioner.

36 (c) The obligation imposed under subsection (a) of this Section shall exist until such time that the Commissioner
37 finds that a subsequent change in ownership or governance of the affected Delaware health service corporation has negated
38 the change of control affiliation or transaction that triggered the insurer's obligation under subsection (a), or until such time
39 that the Commissioner determines that the program has been effectively replaced by federal law.

40 (d) For purposes of this Section, a "Children's Health Insurance buy-in program" is a state program that allows
41 children who would otherwise be ineligible to participate in the state's CHIP program by virtue of income to nevertheless
42 participate in the program by paying a monthly premium.

43 (e) For purposes of this Section, "CHIP program" means the federal Children's Health Insurance Program.

44 (f) Future adjustments to premiums for any Delaware CHIP buy-in program created pursuant to this Section shall
45 be subject to Chapter 25 of this Title, with premiums charged in other states whose CHIP buy-in programs are administered
46 by the insurer being a factor considered under Section 2503(a)(3).

47 (g) Any program created pursuant to this Section shall be actuarially separated from a health service corporation's
48 other insurance plans, and shall not affect the premiums approved by the Commissioner pursuant to Chapter 25 for those
49 other plans."

50 Section 2. This Act shall apply to any proposed transaction or affiliation subsequent to its enactment and to any
51 transaction or affiliation pending approval from the Commissioner and/or Attorney General at the time of its enactment.

52 Section 3. This Act does not affect or diminish the Attorney General's statutory and common law authority with
53 respect to affiliations and other transactions involving health service corporations or other insurers, nor does it affect or
54 diminish the Insurance Commissioner's statutory and common law authority with respect to said transactions and
55 affiliations.

SYNOPSIS

This Act will require insurers administering CHIP buy-in programs in other states to cause similar buy-in programs to be offered in Delaware if they should engage in specified transactions or affiliations with Delaware health service corporations.

Author: Senator Blevins