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DELAWARE STATE SENATE
146th GENERAL ASSEMBLY

SENATE BILL NO. 56

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

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 the program created by
10 16 Del.C. § 9909(j);

11 NOW THEREFORE

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

13 Section 1. AMEND Title 18, Delaware Code, by adding a new § 6310 to 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 corporation
16 licensed under this Chapter and (ii) any insurer that administers a Children’s Health Insurance program buy-in program
17 (“the insurer”), the Commissioner shall not approve the transaction or affiliation unless the affiliation will result in the
18 Delaware-licensed health service corporation administering the Delaware program created under 16 Del.C. § 9909(j) with
19 monthly premiums similar to the premiums offered in the state where the insurer administered a CHIP buy-in program prior
20 to the affiliation or transaction.

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

(2) With respect to states where free CHIP enrollment is offered at higher income levels than it is offered in Delaware, the premiums charged by the insurer to individuals in Delaware under 16 Del.C. § 9909(j) who would have been eligible by virtue of income for free coverage in the state where the insurer administered a CHIP buy-in program prior to the affiliation or transaction shall be actuarially consistent with premiums charged under 16 Del.C. § 9909(j) for higher income brackets

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

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

(c) The obligation imposed under subsection (a) of this Section shall exist until such time that the Commissioner finds that a subsequent change in ownership or governance of the affected Delaware health service corporation has negated the change of control affiliation or transaction that triggered the insurer’s obligation under subsection (a).

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

(e) For purposes of this Section, “CHIP program” means the federal Children’s Health Insurance Program.

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

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

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