

TESTIMONY

Chairman Thomas and Members of the House Agricultural Committee,

Blue Cross Blue Shield of North Dakota (BCBSND) respectfully requests a Do Not Pass for Senate Bill 2349.

The proposed legislation in SB 2349 creates an unfair market within the health insurance industry. SB 2349 will exempt a single entity from state requirements that all other health insurance providers in North Dakota must follow, creating an uneven playing field where one organization will have a regulatory and competitive advantage. This legislation will allow this organization to design a unique product that, due to current regulations surrounding it, no other carrier will be able to match.

BCBSND has always worked closely with our farming members to support them and provide affordable products that best suit their needs, as we do with all our members. However, unlike the organizations that would qualify under SB 2349, we have to do so within the guidelines of the existing regulations. As such, SB 2349 should be amended to deregulate us as well. This will provide not only the option for these lower-cost alternatives but also create competition within the space beyond that of just one organization. Competition would foster an environment where insurance providers will strive to lower prices and improve the quality of their products and services. We would love the opportunity to exist in a similar unregulated space and believe BCBSND has the creativity and innovation to do even more: same sandbox, same rules.

Secondly, current law requires insurers to offer policies to people with pre-existing conditions. Absent that legal requirement, the SB 2349 exempt organizations can “cherry pick” healthy applicants and reject others. That leaves the other carriers which are by law not permitted to deny an individual based on these pre-existing conditions to pick up the cost. As a result those on the ACA marketplace, with already high deductibles and premiums, will now face even higher costs as the healthiest leave to join the “non-insurance” plan. Further, since these coverage options supposedly geared toward farmers could turn out to have a far broader reach, allowing those outside the membership of the Farm Bureau to enroll, there could be a significant adverse impact on the insurance market. The likely result is that this plan with lower premiums will lure healthier people out of the regular insurance risk pools for individuals and small businesses. The market will become fragmented, driving up premiums for those who remain.

Under this “cherry picking” method, many of those in need will not be effectively served within our state. In a survey funded by the U.S. Department of Agriculture, 2 out of 3 farmers and ranchers reported having a pre-existing health condition. In the previous testimony provided, this plan stated they disapprove approximately 10% of the applicants based on their current health needs, which will leave a portion of the population unable to access this lower-cost coverage while simultaneously facing the new reality of higher premiums across the board due to loss of member participation. Further, even in the case that individuals who have pre-existing conditions are permitted into the policy, it is unlikely the plan will be able to meet the needs of this group, as people with health conditions who manage to buy such a plan will likely find features such as benefit gaps, higher out-of-pocket costs, and pre-existing condition exclusions.

The state protections and regulations are lost for those lucky enough to qualify for an SB 2349 exempt policy. Provider mandates are important to both healthcare consumers and providers. Some of these provider mandates this legislature has put into place over the years include chiropractic care, treatments for alcoholism and substance abuse, mental health disorders, cancer screenings and treatments, breast reconstruction, pregnancy, and post-delivery services, among others. Absent a legal obligation, what guarantee do lawmakers have that chiropractors, psychologists, or other providers will be covered under these new “non-insurance” policies? None.

North Dakota law also requires that insurers have adequate reserves to pay claims. Again, this bill removes that requirement for certain organizations. Who gets stuck with the bill if this exempt organization can't pay? The patient? The provider? North Dakota has a Health Insurance Guaranty Association that normally covers such obligations; however, these policies would not qualify for this protective mechanism, so the providers and policyholders may likely be exposed to risk.

The product described under SB 2349 is reminiscent of health care sharing ministries, where coverage is provided based on the ministry's beliefs. Although these organizations may not have the same aspect of belief-based reasoning, the same principle applies. Without being subject to the state's regulatory arm, they could choose what they want to cover and possibly for how long. Example being how will they address special enrollment periods? Can someone enroll after a broken arm that requires surgery or not? Could they drop someone once already enrolled if they end up with a chronic or catastrophic condition?

Currently, when a North Dakotan is denied approval for a procedure based on medical necessity, they have the right to appeal that decision both internally as well as a right to an external review conducted through the Insurance Department. This protection will no longer exist for the policies issued under SB 2349. Who will approve the policy, prevent discrimination, or manage complaints under this bill? Because it is not an insurance product, it will not be regulated by the ND DOI or Commissioner Godfread. Would these N.D. complaints go to the Tennessee regulator? Will we be outsourcing our citizens to an out-of-state regulator to manage their healthcare coverage when we already have a system that is in place locally?

Cherry picking will also impact the Reinsurance Association of North Dakota or RAND, created to reduce premiums. RAND functions from carriers paying into the reserve funds in exchange for a tax break. RAND then pays 75% of the claim amounts, for individual policies, between \$100,000 and \$1 million, after which the carrier resumes payment. SB 2349 could be improved by requiring the Farm Bureau to be one of the parties assessed to help cover the costs of RAND.

Lastly, the affordability of these plans is not worth the risk. One example is in South Dakota, where our sister Blue plan administers the Farm Bureau product, where the cost between this product and the other plans they administer is very close. However, the Blue Plan provides the security of the insurance regulations supported in South Dakota and a competitive coverage product, while the Farm Bureau product does not. The risk, coupled with the fact that similar Short Term Limited Duration Plans already exist on the marketplace, which are regulated through the Department of Insurance is the basis for BCBSND asking for a Do Not Pass recommendation for SB 2349.

Thank you.

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