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Memo

Date: September 9, 2024

To: Rebecca Fricke - Executive Director, North Dakota Public Employees Retirement System

Representative Austen Schauer - Chair, Legislative Employee Benefits Programs Committee, North Dakota State Government

From: Tim Egan, Dan Plante, Ford Edgerton, and Karno Sarkar - Deloitte Consulting LLP

Subject: **FINANCIAL REVIEW OF PROPOSED BILL 25.0142.01000**

Deloitte Consulting LLP (Deloitte [i]) was engaged to review the proposed legislation and the potential financial impact to the Uniform Group Insurance Program (Program) administered by the North Dakota Public Employees Retirement System (NDPERS), as well as other considerations that may contribute to the evaluation of the legislation.

The information included in the review relies on data provided by NDPERS, as well as publicly available data and industry studies. From the data provided by NDPERS, some of these data sources were developed by NDPERS, while others were prepared or created by third parties and delivered to NDPERS.

As part of the review, all data was reviewed for reasonableness, but an audit was not performed on the data. To the extent the data contains errors or anomalies that were unknown at the time the data was provided, the analysis may be affected by those issues.

OVERVIEW OF PROPOSED BILL

The Bill amends and reenacts sections 54-52.1-01, 54-52.1-02, and 54-52.1-03.1 of the North Dakota Century Code relating to health insurance benefits coverage provided by the Uniform Group Insurance Program. The amendment changes the following:

- Consolidates the definition of "carrier" to an entity that is authorized to provide health insurance in the state
    - The prior definition splits out coverage for medical benefits coverage and hospital coverage
- Revises the definition for "health insurance benefits coverage" to include coverage that includes the essential health benefits that are stated under section 1302 of the federal Patient Protection and Affordable Care Act (PPACA) and is nondiscriminatory per the regulations in title 45 of the Code of Federal Regulations, section 156.110
- Amends the responsibilities of the Uniform Group Insurance Program to cover the essential health benefits as defined under "health insurance benefits coverage"

  - This amendment also consolidates the subgroups under the Uniform Group Insurance Program so that hospital and medical insurance are under the umbrella of health insurance

- Specifies that Garrison Diversion Conservancy District and district health units that are required to participate in the retirement system, may participate in the Uniform Group Insurance Program
- Requires that the Uniform Group Insurance program must provide health insurance benefits

IMPLICATIONS OF BILL

While not explicitly stated in the language of the bill, the intent of Bill 142 is to require that the Uniform Group Insurance Plan covers all essential health benefits (EHB) as determined by the state for all State employees and former employees that participate in the plan. Currently, the plan with the highest enrollment is a grandfathered plan that is not required to provide coverage for all EHBs. Thus, Bill 142's intent is to remove the grandfathered status of this plan.

By moving the current grandfathered health plan to non-grandfathered status, a few items need to be considered:

1) The plan will now be required to cover all EHBs as deemed by the state. The provisions that were previously not covered but will now be added are the following:

    a. In-Network Preventive Services will be covered at 100%

    b. Out-of-Network emergency room services will be covered at the same level as in-network

    c. Pediatric Dental and Vision will be covered under the health plan (previously covered under a separate plan)

    d. Coverage of glucagon-like peptide-1 (GLP1) and gastric inhibitory polypeptide (GIP) drugs for morbid obesity as well as diabetes, which is currently covered

2) The plan must also ensure that all copays accumulate towards the out-of-pocket maximum

3) No EHB can be restricted by a dollar cap on services

4) A non-grandfathered plan, unlike a grandfathered plan, must now comply with all ACA reporting provisions. This includes Transparency in Coverage reporting, RxDC reporting, and the No Surprises Act attestations

However, when moving the plan to non-grandfathered status, the Uniform Group Insurance Program will no longer face the restrictions when it comes to premium increase and cost-sharing that grandfathered plans must be subject to. Specifically, grandfathered plans cannot reduce any benefits or shift more costs to an employee by means of a copay increase that is higher than medical inflation. Grandfathered plans also cannot increase the share of premium paid by an employee or increase their member contribution by more than 5 percentage points compared to the cost share that was in place prior to the signing of the PPACA in 2010. For example, if employees paid for 20% of premium prior to 2010, they cannot pay more than 25% of total premium costs for the plan to remain grandfathered. These restrictions would be removed when moving from a grandfathered status to non-grandfathered status, allowing the Program to have

more freedom in their cost-share strategy and plan designs. As long as the new non-grandfathered plans are deemed "affordable", they will comply with ACA requirements.

ESTIMATED FINANCIAL IMPACT

Based on the review of current offerings and the stipulations within the current legislation, it is anticipated that moving the plan from grandfathered to non-grandfathered status will have a financial impact on the Uniform Group Insurance Program. It is estimated the financial impact of this move is approximately $21,040,000 in the 2025 – 2027 biennium ending 6/30/2027. There is an additional impact to cost as a result of covering GLP-1/GIP drugs for weight loss, however, the variabilities around this impact will be discussed further in this memo.

In order to move from grandfathered status to non-grandfathered status, the plan design must change in the following ways:

- All copays will accumulate towards a member's plan out-of-pocket maximum
- The out-of-network emergency room benefit must have the same cost-share as the in-network emergency room benefit
- Preventative services are covered at 100% in-network

Additionally, the Uniform Group Insurance Program must cover all essential benefits under the PPACA under their plan offering. This is not limited to just the medical and prescription drug plan, but under section 2, this also includes dental and vision benefits. The essential health benefits listed in the PPACA include the following:

- Ambulatory patient services
- Emergency Services
- Hospitalization
- Maternity and newborn care
- Mental Health and Substance abuse disorders, including behavioral health treatment
- Prescription drugs
- Rehabilitative and Habilitative Services and Devices
- Laboratory Services
- Preventive and Wellness Services including chronic disease management
- Pediatric Services, including oral and vision care
    - Currently covered under the dental and vision benefits

All the EHBs are currently covered under the Uniform Group Insurance Program and thus would not require any further design changes to the plan.

The development of the estimated claims impact utilized an internal Medical Rate Model, which includes medical and pharmacy benefit designs and is based on over 40 million active/non-Medicare retiree claims. The Medical Rate Model functions as a claims repayment model, applying detailed input plan provisions against the claims record database, effectively repricing the claims, and producing the expected plan claim payments versus allowed charges.

As a result of the modeling, it is estimated the plan design changes required as a result of the proposed Bill would produce a 3.0% increase to the expected total costs paid by the Uniform Group Insurance Program. This anticipated change to the expected claims costs was applied to the estimated biennium claims cost for actives and pre-Medicare retirees enrolled in the PPO/Basic Grandfathered plan, as developed during the 2022 biennial renewal process and trended to the 2025-2027 biennium.

It is estimated that the financial impact of the proposed legislation on the Uniform Group Insurance Program is approximately $21,040,000 in the 2025-2027 biennium ending 6/30/2027.

Additionally, State of North Dakota has recently amended their Essential Health Benefit plans to include the following benefits:

- Insulin and insulin supplies capped at $25 for a 30-day supply
- Coverage for one hearing aid per ear for the hearing-impaired every 36 months
- Coverage for up to 12 sessions of nutritional screenings, counseling and therapy for obesity or other diabetes-related diagnoses
    - This is covered under the NDPERS Diabetes Program which has no maximum limit on visits
- Coverage of glucagon-like peptide-1 (GLP1) and gastric inhibitory polypeptide (GIP) drugs as treatment for diabetes, insulin resistance, metabolic syndrome, or morbid obesity (also called Severely Obese or Obese Class III, and defined as a body mass index of 40.0 or higher)
- Coverage for the diagnosis and treatment of periodontal disease
- Coverage for PET scans at least every six months for individuals with prostate cancer
- Limits on opioid prescriptions for up to 7 days and the removal on preauthorization for drugs used to treat opioid use disorder and opioid replacement drugs
- Over-the-counter access to drugs to treat opioid overdoses

The current language in the proposed amendment does not require these benefits to be covered under the Uniform Group Insurance Program. However, most of these benefits are also included in the Uniform Group Insurance Program and therefore would not incur any additional costs. The only benefit that is not covered under the current Uniform Group Insurance Program offerings is the coverage of GLP-1 drugs for obesity.

The coverage of GLP-1 and GIP drugs for Severe Obesity is one unknown when reviewing the financial impact of this bill. The Uniform Group Insurance Program currently covers these drugs solely to treat diabetes. However, neither the program nor Sanford Health covers GLP-1 drugs to counter Severe Obesity. An internal GLP-1/GIP Drug Claims Cost Model was utilized to estimate the additional cost of covering Severe Obesity on the Uniform Group Insurance Program. This model

uses US Census data as well data and assumptions for GLP-1 drugs published by Harvard, the CDC, and Milliman to estimate the financial impact of GLP-1/GIP drugs.

The estimated financial impact of covering GLP-1 and GIP drugs can range from $3,500,000 to $7,000,000 for the 2025-2027 biennium ending 6/30/2027, assuming that the coverage would be available to individuals with a BMI over 40.0. This represents an additional cost of 0.45% to 0.9% to the Uniform Group Insurance Program.

The estimated range depends on how manufacturers will honor rebate payments for plans covering GLP-1 drugs for weight loss. Severe Obesity is officially defined as a BMI of 40.0 or higher. However, the Food and Drug Administration (FDA) has approved the use of GLP-1 drugs for members with a BMI of 30.0 or higher. Novo Nordisk, the manufacturer of the GLP-1 drug Wegovy, has publicly stated that if plans cover GLP-1 drugs for weight loss but limit access for coverage to a BMI over 40.0, then Novo Nordisk will not provide rebates or discounts to plans that limit access. For example, they have refused to provide rebates to the State of North Carolina and the University of Texas health plans which have included limitations to their GLP-1 drug access[1]. The $7,000,000 estimate is based on the assumption that rebates would not be paid to the Uniform Group Insurance Program.

The financial impact of covering GLP-1 drugs for weight loss can vary significantly based on a variety of assumptions. As noted above, the estimate of $3,500,000 to $7,000,000 assumes that GLP-1 drugs would be available only to individuals with a BMI over 40.0. According to US Census data as it relates to North Dakota, approximately 8.3% of the population would qualify under this criterion. However, this assumption can significantly shift depending on slight changes to the BMI limit. For example, if the BMI limit decreased to 30.0 to match what has been approved by the FDA or even to 27.0 which a limit followed by some insurers, the eligible population would increase to approximately 35% - 55% of NDPERS membership. In these scenarios, the resulting estimated financial impact of GLP-1 drugs to treat weight loss would be approximately $16,000,000 - $25,000,000; an increase of 2.0% to 3.1% in costs. The impact estimate could vary further on the program utilization of the drugs, with the assumption that with more members eligible for the benefit could lead to further variability in costs.

These variations highlight the potential fluctuations in the cost estimates for covering GLP-1 drugs based on different eligibility criteria. The current language of North Dakota's EHB relating to GLP-1 does deviate from federal guidance on the eligibility of GLP-1s for weight loss. If the State wanted to modify the language of their EHB to follow FDA guidance and not potentially be subject to decreased rebates, they could consider including additional language to tie the coverage to the standards set forth by the FDA.

Eligibility is not the only assumption that could influence the estimated financial impact of GLP-1 drugs on the Program. Other factors include, but are not limited to:

- Gender breakdown of eligible members
- The type of GLP-1 drug being used. While Wegovy, Ozempic, and Zepbound are popular drugs, more drugs are expected to be introduced to the market, pending FDA approval. There are over 100 GLP-1 drugs in development, including oral medication. The increase in the number of GLP-1 drugs can impact the overall cost of drugs
- The weight loss that will be sustained by members using GLP-1 drugs
- The dosage of a GLP-1 prescription to treat obesity can be different than the dosage to treat diabetes. This will affect the cost per prescription for a weight loss diagnosis compared to that for diabetes

- The adherence rate for GLP-1 drugs for weight loss may fluctuate compared to diabetes

- GLP-1 drugs for weight loss may lower the impact of other comorbidities for members. Therefore, other medical costs may be avoided as members lose weight when utilizing a GLP-1 drug

    - The estimated impact include in this memo includes an assumption that the weight loss realized by GLP-1 drugs would result in potential cost avoidance elsewhere

- GLP-1 drugs for weight loss are not maintenance drugs. Members may taper off these drugs as they manage their weight. Therefore, the utilization can taper off over time and could lower cost to the plan

OTHER CONSIDERATIONS

It is our understanding that the intent of Bill 142 is to transition the Uniform Group Insurance Program plans to non-grandfathered status. However, the current language of the bill does not explicitly mandate this change. The primary requirement of the bill is for the plan to cover all essential health benefits (EHB) as outlined in this memo.

The Program can make the necessary design changes to include GLP-1 coverage for obesity to comply with the EHB requirements of the bill while maintaining its grandfathered status. This can be achieved by not altering the current copay, preventative care, and emergency room plan provisions. By doing so, the Program would retain the existing restrictions on cost-sharing and plan design associated with a grandfathered plan, while also avoiding the reporting requirements that would come with administering a non-grandfathered plan.

To better clarify the language of Bill 142 to specify its intent to remove the grandfathered status of the Uniform Group Insurance Health Program, Section 2b could be amended to include additional language the coverage is subject to the regulatory cost-share, premium increase, and reporting requirements of non-grandfathered plans under federal guidelines.

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[1] Business Insider. (2024). "2 major employers said they stopped paying for weight-loss drugs like Wegovy after the drugmaker threatened to penalize them"