



House of Representatives

File No. 624

General Assembly

February Session, 2010

(Reprint of File No. 106)

House Bill No. 5295
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 22, 2010

**AN ACT CONCERNING THE PURCHASING OF PRESCRIPTION
DRUGS BY NONSTATE PUBLIC EMPLOYERS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (m) of section 5-259 of the 2010 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (m) (1) Notwithstanding any provision of the general statutes, the
5 Comptroller shall begin procedures to convert the group
6 hospitalization and medical and surgical insurance plans set forth in
7 subsection (a) of this section, including any prescription drug plan
8 offered in connection with or in addition to such insurance plans, to
9 self-insured plans, [for benefit periods beginning on or after July 1,
10 2010,] except that any dental plan offered in connection with or in
11 addition to such self-insured plans may be fully insured.

12 (2) The Comptroller may enter into contracts with third-party
13 administrators to provide administrative services only for the self-
14 insured plans set forth in subdivision (1) of this subsection. Any such

15 third-party administrator shall be required under such contract to
16 charge such third-party administrator's lowest available rate for such
17 services.

18 (3) (A) (i) The Comptroller shall offer nonstate public employers the
19 option to purchase prescription drugs for their employees, employees'
20 dependents and retirees under the purchasing authority of the state
21 pursuant to section 1 of public act 09-206, subject to the provisions of
22 subparagraph (E) of this subdivision.

23 (ii) For purposes of this subdivision, "nonstate public employer"
24 means (I) a municipality or other political subdivision of the state,
25 including a board of education, quasi-public agency or public library,
26 as defined in section 11-24a, or (II) the Teachers' Retirement Board.

27 (B) The Comptroller shall establish procedures to determine (i) the
28 eligibility requirements for, (ii) the enrollment procedures for, (iii) the
29 duration of, (iv) requirements regarding payment for, and (v) the
30 procedures for withdrawal from and termination of, the purchasing of
31 prescription drugs for nonstate public employers under subparagraph
32 (A) of this subdivision.

33 (C) The Comptroller may offer to nonstate public employers that
34 choose to purchase prescription drugs pursuant to subparagraph (A)
35 of this subdivision the option to purchase stop loss coverage from an
36 insurer at a rate negotiated by the Comptroller.

37 (D) Two or more nonstate public employers may join together for
38 the purpose of purchasing prescription drugs for their employees,
39 employees' dependents and retirees. Such arrangement shall not
40 constitute a multiple employer welfare arrangement, as defined in
41 Section 3 of the Employee Retirement Income Security Act of 1974, as
42 amended from time to time.

43 (E) (i) The Comptroller shall offer nonstate public employers the
44 option to purchase prescription drugs through the plan set forth in the
45 State Employees' Bargaining Agent Coalition's collective bargaining

46 agreement with the state only if the Health Care Cost Containment
 47 Committee, established in accordance with the ratified agreement
 48 between the state and said coalition pursuant to subsection (f) of
 49 section 5-278, has indicated in writing to the Comptroller that allowing
 50 such nonstate public employers such option is consistent with said
 51 coalition's collective bargaining agreement.

52 (ii) Such writing shall not be required if the Comptroller establishes
 53 a separate prescription drugs purchasing plan for nonstate public
 54 employers.

55 (iii) Nonstate public employers that purchase prescription drugs
 56 pursuant to this subdivision shall pay the full cost of their own claims
 57 and prescription drugs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	5-259(m)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
State Comptroller - Fringe Benefits	GF & TF - Savings	Potential	Potential
Department of Revenue Services	GF - Revenue Loss	Potential	Potential

Note: GF=General Fund; TF = Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill would require the Comptroller to allow nonstate public employers to purchase prescription drugs for their employees and retirees under the state's purchasing authority in one of two ways: 1) through the state's self-insured prescription drug plan assuming written consent from the State Employees' Bargaining Agent Coalition (SEBAC) and Health Care Cost Containment Committee has been obtained¹, or 2) through a separate prescription drug purchasing plan established by the Comptroller for nonstate public employers. If purchasing from the same pool, the state could potentially achieve savings by increasing the size of the state's current purchasing pool.

Participation of nonstate public employers in either purchasing pool would be voluntary. There are approximately 110,000 municipal

¹ The benefits provided under the state employee prescription plan are established in a collectively bargained agreement between the State of Connecticut and the State Employees Bargaining Agent Coalition (SEBAC). The current 20-year agreement expires in 2017.

employees (including boards of education). It is anticipated that certain municipalities (particularly smaller towns and non-state public groups), boards of education, quasi-public agencies and public libraries will achieve savings from larger-group purchasing power and pooled administrative economies of scale to the extent that they utilize joint purchasing of health insurance as clarified by the bill.²

The Comptroller's Office is expected to handle administration for these additional entities. It is assumed that other nonstate public entities not anticipating savings would forgo joining the state plan. In order for these groups to determine whether they can achieve a savings under the state plan, employers must examine not only the rates and plan design but also 2 to 3 years of its utilization data.

Municipalities, boards of education, quasi-public agencies and public libraries currently offering health coverage through private health insurers are required to pay an Insurance Premiums Tax to the state of Connecticut. To the degree that the bill results in these groups shifting their participation into fully-insured health plans to procure coverage under Connecticut General Statute 5-259(i) the state would experience a revenue loss to the Insurance Premiums Tax.

House "A" strikes the underlying bill and results in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

² In 1990 the Department of Insurance issued a letter ruling (HC-43) which forbids multiple employer welfare associations in Connecticut. CGS 7-148cc allows municipalities to perform any function jointly that they can do separately.

OLR Bill Analysis**HB 5295 (as amended by House "A")******AN ACT CONCERNING MUNICIPALITIES AND PRESCRIPTION DRUG PLANS.*****SUMMARY:**

This bill requires the comptroller to (1) offer nonstate public employers the option to purchase prescription drugs through the state's bulk purchasing authority under PA 09-206 and (2) establish procedures for doing this. The prescription drugs must be purchased for the employers' employees, employees' dependents, or retirees. The bill defines "nonstate public employer" as (1) a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library or (2) the Teachers' Retirement Board.

In making the offer, the bill requires the comptroller to offer nonstate public employers the option of purchasing prescription drugs through the State Employees' Bargaining Agent Coalition (SEBAC) collective bargaining agreement with the state, but only if the Health Care Cost Containment Committee (HCCCC) gives the comptroller written notice that doing so is consistent with SEBAC's agreement with the state. (HCCCC is a state labor and management committee that exists under agreement with SEBAC.) The bill permits the comptroller to proceed without the written notice if she establishes a prescription drug purchasing program for nonstate public employers that is separate from the program for state employees.

The bill requires nonstate public employers to pay the full cost of their own claims and prescription drugs.

The bill authorizes the comptroller to offer a nonstate public employer participating in the prescription drug purchasing program

the option of purchasing stop-loss coverage from an insurer at a rate she negotiates.

Lastly, the bill permits two or more nonstate public employers to join together to purchase prescription drugs for their employees, employees' dependents, and retirees. It specifies that such an arrangement does not constitute a multiple employer welfare arrangement (MEWA) as defined under federal law.

*House Amendment "A" replaces the underlying bill, which required the comptroller to allow nonstate public employers to join the self-insured state employee prescription drug benefit plan. It instead opens the state's bulk prescription drug purchasing program to nonstate public employers.

EFFECTIVE DATE: Upon passage

PROCEDURES TO BE ESTABLISHED

The bill requires the comptroller to establish procedures for allowing nonstate public employers to purchase prescription drugs through the state's bulk purchasing program. The procedures must include:

1. eligibility requirements,
2. the enrollment process,
3. duration of participation,
4. payment requirements,
5. withdrawal from the arrangement, and
6. termination of the program.

BACKGROUND

PA 09-206

PA 09-206, as amended by PA 09-232, § 28, requires the Social

Services and Administrative Services commissioners and the comptroller, in consultation with the Public Health commissioner, to develop a plan concerning the bulk purchasing of pharmaceuticals. Specifically, the plan must implement and maintain a prescription drug purchasing program and procedures to aggregate or negotiate pharmaceutical purchases for HUSKY Part B, State Administered General Assistance, Charter Oak Plan and ConnPACE recipients, Department of Correction inmates, and people eligible for insurance under the state employee and municipal employee health insurance plans.

STOP LOSS

A stop-loss policy is also known as an excess reimbursement or excess coverage policy. It insures the plan issuer, which is usually an employer operating a self-insured benefit plan in accordance with the federal Employee Retirement Income Security Act of 1974 (ERISA). The policy is intended to protect the employer from catastrophic claims. Payment under the stop-loss policy is made to the plan, rather than to individual employees, for incurred claims. The policy sets a specific aggregate amount required to trigger the stop-loss coverage. The aggregate amount cannot be so low as to make payment by the stop-loss insurer an actuarial certainty.

MEWA

An employer that self-insures a health benefit plan for its employees is generally not subject to state insurance laws because of federal preemption under ERISA. But a multiple employer plan may not have the same exemption.

ERISA defines “multiple employer welfare arrangement” as an employee welfare benefit plan, or any other arrangement that is established or maintained for the purpose of offering or providing benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that it does not include a plan or arrangement established or maintained by a collective bargaining agreement, rural electrical cooperative, or rural

telephone cooperative association (29 U.S.C. § 1002(40)).

Congress amended ERISA in 1983 to provide an exception to ERISA's preemption provisions for the regulation of MEWAs under state insurance laws (P.L. 97-473). As a result, if an ERISA-covered employee welfare benefit plan is a MEWA, states may apply and enforce state insurance laws with respect to it.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 14 Nay 5 (03/09/2010)