

OFFICE OF FISCAL ANALYSIS

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SB-180

AN ACT CONCERNING ADVERSE DETERMINATION AND
UTILIZATION REVIEWS.

AMENDMENT

LCO No.: 4233

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Senate Calendar No.: 43

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$	FY 27 \$
Insurance Dept.	IF - Cost	See Below	See Below	See Below
Insurance Dept.	IF - Revenue Gain	See Below	See Below	See Below
Insurance Dept.	GF - Potential Revenue Gain	Minimal	Minimal	Minimal
Department of Revenue Services	GF - Revenue Impact	None	Potential	Potential
Connecticut Health Insurance Exchange	EF - Revenue Impact	None	None	Potential

Note: IF=Insurance Fund; GF=General Fund; EF=Enterprise Fund

Municipal Impact: None

Explanation

The amendment strikes the underlying bill and its associated fiscal impact, resulting in the fiscal impact described below.

The amendment authorizes a self-funded multiple employer welfare arrangement (MEWA) trust, once licensed by the Insurance Department (DOI), to administer a health benefit plan that is not insurance but must follow most of the rules for health insurance companies in the state. It also permits associations of small employers purchasing health insurance in the fully insured market to be subject to large group rating rules in certain circumstances.

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The amendment results in: (1) costs and offsetting revenue to DOI associated with regulating the self-funded MEWA trusts beginning as early as FY 25, (2) a potential minimal revenue gain to the General Fund from license and filing fees of any new entities formed, (3) a potential revenue impact to the General Fund associated with insurance premiums tax beginning in FY 26, and (4) a potential revenue impact to the Connecticut Health Insurance Exchange (“exchange”) beginning in FY 27.

The amendment also requires self-funded MEWA trusts to report claims data to the all-payer claims database, which has no fiscal impact.

State Regulation Fiscal Impacts

The total annual costs for state regulation of self-funded MEWAs will depend on the number of such entities that are established; however, the cost per year to DOI is anticipated to exceed \$17,000 each.¹ The amendment requires that self-funded MEWAs reimburse DOI for costs associated with their financial and market conduct examinations, so costs to DOI under the amendment will be mostly offset by Insurance Fund revenue gains to the agency.²

Costs related to regulating self-funded MEWA trusts could be incurred beginning in FY 25, as the amendment allows them to apply for a license beginning as early as October 1, 2024, and to start offering health benefit plans, once licensed, beginning April 1, 2025. The entities will bear the cost of the contracted services of attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals required to supplement agency staffing in order to complete their financial examinations and market conduct reviews. They will also be billed for Insurance Department staff time in

¹ \$17,000 per trust reflects the staff time, at both analyst and supervisor hourly rates, anticipated to be required to handle the new volume of work associated with quarterly financial analysis of one such entity. A typical market conduct examination is approximately \$100,000, which would typically be done once every three to five years.

²Associations of small employers purchasing in the large group market are not anticipated to increase DOI costs, as the insurers selling such plans are already regulated by DOI.

connection with those examinations and reviews.

The amendment gives employees covered by self-funded MEWA trusts' health benefit plans access to the Division of Consumer Affairs at DOI, which could result in staff costs to the Insurance Fund, to the extent additional staff are needed to handle the volume of complaints and questions received. One additional Health Unit insurance examiner at a cost of \$143,000 annually (\$73,000 for salary and \$70,000 for fringe benefits) is anticipated to be required if approximately 100,000 people become covered by the trusts.

The bill appears to require the trusts to pay the same license and filing fees applicable to health insurance companies, which include: (1) the pre-license document filing fee of \$220, (2) the annual license fee of \$200, and (3) the annual report fee of \$50. To the extent self-funded MEWA trusts are formed and apply for licensure, the bill results in a minimal annual revenue gain to the General Fund associated with these fees beginning as early as FY 25.

The amendment allows DOI to adopt implementing regulations, which has no fiscal impact because the agency has the necessary expertise.

State Tax and Exchange Revenue Impacts

The amendment may result in a change to the amount of net direct written premiums in the fully insured market beginning in FY 25, with a potential revenue impact beginning in FY 26, to the extent small employers currently purchasing health insurance instead participate in the new health plans permitted under the amendment.³

³Significant uptake of self-funded MEWA trust health benefit plans by small employers currently in the fully insured market could reduce the total amount of net direct written premium that is taxed by the state because self-funded MEWA plans are not an insurance product. However, if the risk pool of the small group fully insured market deteriorates, there would be an offsetting effect in which premiums for the remaining enrollees would rise. Enrollment in the small group market has already been declining in recent years, with some small businesses moving to level-funded plans (which are not part of the fully insured market). Self-funded MEWA trusts are

The insurance premiums tax is levied at a rate of 1.5% on all net direct premiums underwritten. The Department of Revenue Services collected \$254.3 million from the insurance premiums tax in FY 23; it is uncertain how much of that revenue is from policies that could be affected by the amendment.

Significant uptake of the new health plans by businesses and organizations currently in the fully insured small group market could also impact exchange revenue by changing the base for its marketplace assessment beginning in FY 27. The operations of the exchange are almost entirely funded by its marketplace assessments, which are charged at a rate of 1.85% on premiums in the fully insured individual and small group markets.

The exchange marketplace assessment totaled approximately \$31.4 million for FY 23, with small group premiums accounting for 48% of that revenue (approximately \$15.2 million annually). For context, fully insured small group plan enrollment was 107,652 in 2021, and 97,668 in 2022.⁴

Insurance Fund Assessments

The amendment does not impact the revenue to be collected by the three assessments that support the Insurance Fund (the general assessment, the Health and Welfare Fee, and the Public Health Fee), except to the extent that more revenue is needed to support DOI costs for regulating self-funded MEWA trusts than what is reimbursed by the entities. Self-funded MEWA trusts would not pay these assessments, premium taxes, or assessments for the Life and Health Insurance Guaranty Association.

The Insurance Fund assessments begin with the total amount of revenue needed and divide responsibility for that total amount amongst

required to purchase certain insurance products (i.e., stop-loss, fiduciary liability, and directors' and officers' liability).

⁴ Connecticut Insurance Department, *2022 & 2023 Consumer Report Cards on Health Insurance Carriers*. Individual plan enrollment was 109,471 in 2021 and 110,667 in 2022.

insurers, HMOs, and, in the case of the Health and Welfare Fee, third-party administrators and exempt insurers on behalf of the self-funded plans they administer.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does 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.