

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 423

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Joanne J. Ferrary and Deborah A. Armstrong

AN ACT

RELATING TO HEALTH COVERAGE; AMENDING SECTIONS OF THE GROUP BENEFITS ACT TO PROVIDE FOR PARTICIPATION BY CERTAIN NONPROFIT ENTITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-7B-2 NMSA 1978 (being Laws 1989, Chapter 231, Section 2, as amended) is amended to read:

"10-7B-2. DEFINITIONS.--As used in the Group Benefits Act:

- A. "committee" means the group benefits committee;
- B. "director" means the director of the risk management division of the general services department;
- C. "eligible nonprofit entity" means an entity

that:

(1) has as its principal purpose the provision

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 of services for the care and maintenance of sick or indigent
2 persons;

3 (2) has its principal place of business in New
4 Mexico;

5 (3) employs an average of at least fifty-one
6 persons over a twelve-month period; and

7 (4) by the date set by the director for
8 providing written notice of participation pursuant to
9 Subsection F of Section 10-7B-6 NMSA 1978, provides the
10 director written evidence of the following:

11 (a) designation as a nonprofit entity
12 pursuant to Section 501(c)(3) of the federal Internal Revenue
13 Code of 1986; and

14 (b) at least fifty percent of the
15 entity's annual receipts for the previous three years were
16 derived from the state or from federal or local government
17 funds;

18 [~~G.~~] D. "employee" means a salaried officer,
19 employee or legislator of the state; a salaried officer or an
20 employee of a local public body; or an elected or appointed
21 supervisor of a soil and water conservation district;

22 [~~D.~~] E. "local public body" means any New Mexico
23 incorporated municipality, county or school district;

24 [~~E.~~] F. "professional claims administrator" means
25 any person or legal entity that has at least five years of

.212517.2

underscored material = new
[bracketed material] = delete

1 experience handling group benefits claims, as well as such
2 other qualifications as the director may determine from time to
3 time with the committee's advice;

4 [F-] G. "small employer" means a person having
5 for-profit or nonprofit status that employs an average of fifty
6 or fewer persons over a twelve-month period; and

7 [G-] H. "state" or "state agency" means the state
8 of New Mexico or any of its branches, agencies, departments,
9 boards, instrumentalities or institutions."

10 SECTION 2. Section 10-7B-6 NMSA 1978 (being Laws 1989,
11 Chapter 231, Section 6, as amended) is amended to read:

12 "10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE
13 PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION--ELIGIBLE
14 NONPROFIT ENTITY PARTICIPATION.--

15 A. The risk management division of the general
16 services department may, with the prior advice of the
17 committee, establish and administer a group benefits
18 self-insurance plan, providing life, vision, health, dental and
19 disability coverages, or any combination of such coverages, for
20 employees of the state, [~~and of~~] participating local public
21 bodies and participating eligible nonprofit entities. Any such
22 group benefits self-insurance plan shall afford coverage for
23 employees' dependents at each employee's option. Any such
24 group benefits self-insurance plan may consist of self-
25 insurance or a combination of self-insurance and insurance;

.212517.2

underscoring material = new
[bracketed material] = delete

1 provided that particular coverages or risks may be fully
2 insured, fully self-insured or partially insured and partially
3 self-insured.

4 B. The director, with the advice of the committee,
5 shall establish by regulation or letter of administration the
6 types, extent, nature and description of coverages, the
7 eligibility rules for participation, the deductibles, rates and
8 all other matters reasonably necessary to carry on or
9 administer a group benefits self-insurance plan established
10 pursuant to Subsection A of this section.

11 C. The contribution of each participating state
12 agency to the cost of any such group benefits self-insurance
13 plan shall not exceed that percentage provided for state group
14 benefits insurance plans as provided by law. The contribution
15 of a participating local public body to the cost of any such
16 group benefits self-insurance plan shall not exceed that
17 percentage provided for local public body group benefits
18 insurance plans as provided by law. The contribution of a
19 participating eligible nonprofit entity to the cost of any such
20 group benefits self-insurance plan shall not exceed that
21 percentage provided for eligible nonprofit entity group
22 benefits insurance plans as provided by law.

23 D. Except as provided in Subsection E of this
24 section, public employees' contributions to the cost of any
25 group benefits self-insurance plan may be deducted from their

.212517.2

underscored material = new
[bracketed material] = delete

1 salaries and paid directly to the group self-insurance fund;
2 provided that where risks are insured or reinsured, the
3 director may authorize payment of the costs of such insurance
4 or reinsurance directly to the insurer or reinsurer.

5 E. A legislator and the legislator's covered
6 dependents and a soil and water conservation district
7 supervisor [~~or~~] and the supervisor's covered dependents are
8 eligible to participate in and receive benefits from the group
9 benefits self-insurance plan if the legislator or supervisor
10 pays monthly premiums in amounts that equal one hundred percent
11 of the cost of the insurance. The premiums shall be paid
12 directly to the group self-insurance fund; provided that where
13 risks are insured or reinsured, the director may authorize
14 payment of the premiums directly to the insurer or reinsurer.

15 F. Local public bodies, eligible nonprofit entities
16 and state agencies that are not participating in the state
17 group benefits insurance plan or self-insurance plan may elect
18 to participate in any group benefits self-insurance plan
19 established pursuant to Subsection A of this section by giving
20 written notice to the director on a date set by the director,
21 which date shall not be later than ninety days prior to the
22 date participation is to begin. The director shall determine
23 an initial rate for the electing entity in accordance with a
24 letter of administration setting forth written guidelines
25 established by the director with the committee's advice. The

.212517.2

underscored material = new
[bracketed material] = delete

1 initial rate shall be based on the claims experience of the
2 electing entity's group for the three immediately preceding
3 continuous years. If three years of continuous experience [~~is~~]
4 are not available, a rate fixed for the entity by the director
5 with the committee's advice shall apply, and the electing
6 entity's group shall be rerated on the first premium
7 anniversary following the date one full year of experience for
8 the group becomes available. Any such election may be
9 terminated effective not earlier than June 30 of the third
10 calendar year succeeding the year in which the election became
11 effective or on any June 30 thereafter. Notice of termination
12 shall be made in writing to the director not later than April 1
13 immediately preceding the June 30 on which participation will
14 terminate. A reelection to participate in the plan following a
15 termination [~~may~~] shall not be made effective for at least
16 three full years following the effective date of termination.

17 G. As soon as practicable, the director with the
18 committee's advice shall establish an experience rating plan
19 for state agencies, [~~and~~] local public bodies and eligible
20 nonprofit entities participating in any group benefits self-
21 insurance plan created pursuant to Subsection A of this
22 section. Rates applicable to state agencies, [~~and~~]
23 participating local public bodies and participating eligible
24 nonprofit entities shall be based on [~~such~~] the experience
25 rating plan. [~~Any such~~] An experience rating plan may provide

.212517.2

underscored material = new
[bracketed material] = delete

1 separate rates for individual state agencies, [~~and~~] individual
2 local public bodies and individual eligible nonprofit entities
3 or for [~~such other~~] the experience centers [~~as~~] the director
4 [~~may determine~~] determines.

5 H. The risk management division of the general
6 services department may establish a reasonable fee to cover the
7 costs of administering group benefits to eligible nonprofit
8 entities."

9 SECTION 3. Section 10-7B-7 NMSA 1978 (being Laws 1989,
10 Chapter 231, Section 7) is amended to read:

11 "10-7B-7. GROUP SELF-INSURANCE FUND CREATED.--

12 A. The "group self-insurance fund" is created. The
13 fund and any income produced by the fund shall be held in trust
14 for the benefit of participating state agencies and their
15 employees, [~~and~~] local public bodies and their employees and
16 eligible nonprofit entities and their employees, deposited in a
17 segregated account and invested by the director with the advice
18 of the committee. Money in the fund shall be used solely for
19 the purposes of the fund and shall not be used to pay any
20 general or special obligation or debt of the state, other than
21 as authorized by this section. Balances in the fund in excess
22 of amounts needed for the purposes of the fund shall not be
23 used to pay dividends or refunds, however described, to
24 individual public employees or their dependents or to eligible
25 nonprofit entities or their employees, but may be used, in the

.212517.2

underscored material = new
[bracketed material] = delete

1 director's discretion, to reduce future contributions, to
2 provide additional benefits or as a reserve to stabilize
3 premiums.

4 B. The fund shall consist of money appropriated to
5 the fund, income from investment of the fund, employers'
6 contributions, employees' contributions, eligible nonprofit
7 entities' contributions, insurance or reinsurance proceeds and
8 other funds received by gift, grant, bequest or otherwise for
9 deposit in the fund, including [~~but not limited to~~] refunds of
10 amounts from prior state group life, vision, dental, health and
11 disability insurance plans, all of which are hereby
12 appropriated to and for the purposes of the fund.

13 C. Disbursements from the fund shall be made by
14 warrant signed by the secretary of finance and administration
15 upon vouchers signed by the director. Lump sum disbursements
16 from the fund may be advanced, in the manner described in this
17 subsection, to a professional claims administrator to be used
18 to pay benefits. Such lump sum disbursements may be made not
19 more than weekly in advance. The professional claims
20 administrator shall keep any such lump sum advance in a
21 segregated account and shall hold the advance in trust for the
22 benefit of participating employees. On or before the last day
23 of each month, the professional claims administrator shall
24 prepare a request for replenishment of the lump sum
25 disbursement in the amount actually paid out for benefits

.212517.2

underscored material = new
[bracketed material] = delete

1 during the month. Not more than thirty days after the last day
2 of each month, the professional claims administrator shall make
3 and submit to the director a detailed report of expenditures of
4 any such lump sum advance during the month.

5 D. Money in the fund may be used by and is hereby
6 appropriated to the risk management division of the general
7 services department:

8 (1) to purchase life, vision, health, dental
9 and disability insurance, or any combination of these, for
10 state and local public body employees and eligible nonprofit
11 entity employees participating in the group self-insurance plan
12 and their covered dependents, from an insurance company
13 determined to be the best responsible bidder, as defined in the
14 Procurement Code, after:

15 (a) requesting sealed proposals from
16 three or more insurance agents licensed in New Mexico; or

17 (b) requesting sealed proposals in
18 accordance with the provisions of the Procurement Code;

19 (2) to contract with and pay one or more
20 professional claims administrators;

21 (3) to contract with and pay private attorneys
22 or law firms for advice and for defense of contested claims
23 determinations;

24 (4) to contract with and pay qualified
25 independent actuaries, financial auditors and claims management

.212517.2

underscored material = new
[bracketed material] = delete

1 and procedures auditors;

2 (5) to contract with and pay consultants,
3 financial advisors and investment advisors for independent
4 consulting and advice;

5 (6) to pay reasonable investment commissions
6 and expenses;

7 (7) to make lump sum advances to any person or
8 firm acting as a professional claims administrator, such
9 advances to be used exclusively to pay benefits to
10 participating employees;

11 (8) to pay benefits to or for participating
12 employees and their dependents;

13 (9) to pay any other costs and expenses
14 incurred in carrying out this section; and

15 (10) as otherwise provided by law.

16 E. The fund shall be maintained in actuarially
17 sound condition as evidenced by the annual written
18 certification of an actuary qualified for such work that, as of
19 June 30 of the current year, the fund was actuarially sound.

20 F. Annually on or before January 15, the director
21 shall submit to the legislature a report on any group self-
22 insurance plan created pursuant to Subsection A of Section [5
23 ~~of the Group Benefits Act~~] 10-7B-6 NMSA 1978, a financial audit
24 of the fund and a claims management and procedures audit by a
25 qualified claims auditor for the one-year period ending on June

.212517.2

underscored material = new
~~[bracketed material] = delete~~

1 30 immediately preceding the report. With respect to claims
2 files, the claims audit may, in the director's discretion, be
3 limited to a random sampling."

4 - 11 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25