

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Life and Health Insurance Guaranty Association Act of 1992 to add health maintenance organizations as member insurers, to make life insurers subject to assessments relating to long-term care insurance, to modify the size parameters for the Board of Directors of the Life and Health Insurance Guaranty Association, and to authorize the Life and Health Insurance Guaranty Association to file certain actuarially justified rate or premium increases; and to amend the Health Maintenance Organization Act of 1996 to repeal its insolvency provision.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Life and Health Insurance Guaranty Association Amendment Act of 2023”.

Sec. 2. The Life and Health Insurance Guaranty Association Act of 1992, effective July 22, 1992 (D.C. Law 9-129; D.C. Official Code § 31-5401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-5401) is amended as follows:

(1) Paragraph (2B) is redesignated as paragraph (2C).

(1) A new paragraph (2B) is added to read as follows:

“(2B) “Board” or “Board of Directors” means the Board of Directors of the Association.”.

(2) A new paragraph (4B) is added to read as follows :

“(4B)(A) “Health benefit plan” means a hospital or medical expense policy or certificate, or health maintenance organization subscriber contract or any other similar health contract.

“(B) The term “health benefit plan” does not include:

“(i) Accident only insurance;

“(ii) Credit insurance;

“(iii) Dental only insurance;

“(iv) Vision only insurance;

“(v) Medicare supplement insurance;

“(vi) Benefits for long-term care, home health care, community-based care, or any combination thereof;

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“(vii) Disability income insurance;
“(viii) Coverage for on-site medical clinics; or
“(ix) Specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or contracts.”.

(3) Paragraph (8) is amended to read as follows:

“(8)(A) “Member insurer” means:

“(i) An insurer or health maintenance organization licensed or holding a certificate of authority in the District of Columbia to sell any kind of insurance or health maintenance organization business for which coverage is provided under section 3 of the act;

“(ii) An insurer or health maintenance organization whose license or certificate of authority in the District has been suspended, revoked, not renewed, or voluntarily withdrawn; and

“(iii) The Group Hospital and Medical Services, Inc.

“(B) The term “member insurer” does not include:

“(i) A fraternal benefit society;

“(ii) A mandatory state pooling plan;

“(iii) A mutual assessment company or any entity that operates on an assessment basis;

“(iv) A risk retention group;

“(v) An insurance exchange;

“(vi) An organization that has a certificate or license limited to the issuance of charitable gift annuities; or

“(vii) Any entity similar to any of the above.”.

(b) Section 3 (D.C. Official Code § 31-5402) is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase “payees of the persons” and inserting the phrase “payees, including health care providers rendering services covered under health insurance policies or certificates, of the persons” in its place.

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(1) Coverage shall be provided to the persons specified in subsection (a) of this section for policies or contracts of direct, non-group life insurance, health insurance (which for purposes of this act shall include health maintenance organization subscriber contracts and certificates) issued by a member insurer, annuities for certificates under direct group policies or contracts issued by a member insurer, and for supplemental contracts issued by a member insurer to any of the foregoing, except as limited by this act. Annuity contracts and certificates under group annuity contracts include allocated funding agreements, structured settlement annuities, lottery contracts, and any immediate or deferred annuity contracts.”.

(B) Paragraph (2) is amended as follows:

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(i) Subparagraph (K) is amended by striking the phrase “; or” and inserting a semicolon in its place.

(ii) Subparagraph (L) is amended by striking the phrase “(referred to as “Medicare Parts C& D” respectively), or any regulations issued pursuant to those acts.” and inserting the phrase “(commonly known as Medicare Parts C and D), or Title XIX of the Social Security Act, approved February 4, 2009 (123 Stat. 91; 42 U.S.C. § 1396 *et seq.*) (commonly known as Medicaid), or any regulations issued pursuant to those titles; or” in its place.

(iii) A new subparagraph (M) is added to read as follows:

“(M) Structured settlement annuity benefits to which a payee (or beneficiary) has transferred his or her rights in a structured settlement factoring transaction as defined in section 115(a) of the Victims of Terrorism Tax Relief Act of 2001, approved January 23, 2002 (115 Stat. 2436; 26 U.S.C. 5891(c)(3)), regardless of whether the transaction occurred before or after such section became effective.”.

(C) A new paragraph (3) is added to read as follows:

“(3) The exclusion from coverage referenced in paragraph (2)(C) of this subsection shall not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health insurance benefits.”.

(3) Subsection (c)(2) is amended as follows:

(A) Subparagraph (A)(ii) is amended as follows:

(i) Sub-sub-subparagraph (I) is amended by striking the phrase “basic hospital, medical, and surgical insurance and major medical insurance” and inserting the phrase “health benefit plan” in its place.

(ii) Sub-sub-subparagraph (IV) is amended by striking the phrase “basic hospital, medical, and surgical insurance and major medical insurance” and inserting the phrase “health benefit plans” in its place.

(B) Subparagraph (A-ii)(i) is amended by striking the phrase “basic hospital, medical, and surgical insurance and major medical insurance” and inserting the phrase “health benefit plans” in its place.

(C) A new subparagraph (C) is added to read as follows:

“(C) For the purposes of this act, benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.”.

(c) Section 5(a)(1) (DC Official Code § 31-5404(a)(1)) is amended to read as follows:

“(a)(1) The Board shall consist of no fewer than 7 and no more than 11 member insurers serving terms as established in the plan of operations.”.

(d) Section 6(r) (D.C. Official Code § 31-5405(r)) is amended as follows:

(1) Paragraph (6) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) A new paragraph (6A) is added to read as follows:

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“(6A) Unless prohibited by law, in accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this act; and”.

(e) Section 7(c)(1) and (2) (D.C. Official Code § 31-5406(c)(1) and (2)) is amended as follows:

“(1) The amount of any Class A assessment shall be determined by the Board and may be authorized and called on a pro rata or non-pro rata basis. If the Class A assessment is called on a pro rata basis, the Board may provide that it be credited against future Class B assessments. The amount of any Class B assessment, except for assessments related to long-term care insurance, shall be allocated for assessment purposes between the accounts and among the subaccounts of the life insurance and annuity account pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer, or any other standard considered by the Board in its sole discretion to be fair and reasonable.

“(2) The amount of the Class B assessment for long-term care insurance written by the impaired or insolvent insurer shall be allocated according to a methodology included in the plan of operations and approved by the Commissioner. The methodology shall provide for 50% of the assessment to be allocated to accident and health member insurers and 50% to be allocated to life and annuity member insurers.”.

(f) A new section 17a is added to read as follows:

“Sec. 17a. Applicability.

“This act shall apply to all matters relating to an impaired insurer or insolvent insurer for which the Association first becomes obligated on or after the effective date of the Life and Health Insurance Guaranty Association Amendment Act of 2023, passed on 1st reading on November 7, 2023 (Engrossed version of Bill 25-126).”.

Sec. 3. Section 32 of the Health Maintenance Organization Act of 1996, effective April 9, 1997 (D.C. Law 11-235; D.C. Official Code § 31-3430), is repealed.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee print as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Code § 1-206(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia