FIS Actuarial Form 6-03

Kentucky Department of Insurance
Financial Impact Statement

I. Mandating health insurance coverage of BR908 / SB150/GA, is not expected to materially increase administrative expenses of insurers, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The mandate requires the following:

a. Requires insurers to submit to the Department of Insurance (DOI) on an annual basis all of the billed changes it receives from both participating and nonparticipating providers for each health care service. The DOI will provide the reported information to a nonprofit organization to maintain a database of the billed charges to be used as a benchmark for determining the UCR for health care services. UCR is defined as the 80th percentile of all charges for a particular health care service performed by a health care professional in the same or similar specialty and in the same geographical area.

b. Requires insurers to reimburse nonparticipating providers for unanticipated out-of-network (OON) emergency care for its insureds within thirty (30) days, at the greater of the insurer's median in-network rate for the current year or the 2018 median rate, less any applicable cost sharing owed by the insured, when the insured did not have the ability to direct that the services be provided by a participating provider. The cost-sharing is not to exceed the cost-sharing that would've been owed if the services had been provided by a participating provider and to be based on the median in-network rate. The nonparticipating provider who is reimbursed the median rate for the unanticipated OON care shall not balance bill the covered insured. Unanticipated emergency care does not include nonemergency health care services when the insured voluntarily selects in writing a nonparticipating provider prior to the provision of services.

c. Requires the Commissioner to create an independent dispute resolution program for nonparticipating providers to dispute the reimbursement rate for the unanticipated emergency health care services described above. This dispute resolution process first requires an informal settlement proceeding between the parties, without the assigned independent reviewer, to attempt to settle the disputed fees. If a settlement cannot be reached by the parties, an independent reviewer will be assigned and the cost of the review will be split evenly between the parties. The independent reviewer shall make a determination on what they consider to be a reasonable amount owed to the nonparticipating provider for the unanticipated OON care. The reviewer's determination shall take into account the following:
    i. Whether there is a gross disparity between the charges billed by the nonparticipating provider and:
        1. Reimbursements paid to the nonparticipating provider for the same service rendered by the provider to other insureds for which the provider is a nonparticipating provider
        2. Reimbursements paid by the insurer to reimburse similarly qualified providers for the same health care services in the same region
    ii. The level of training, education, and experience of the nonparticipating provider
    iii. The nonparticipating provider's historical data for billed charges and reimbursements received for comparable services with regard to other insureds
    iv. The circumstance and complexity of an insured's particular case, including the time and place of the provision of service
    v. An individual insured's medical condition, co-morbidities, and other medical characteristics
    vi. The current and historical data for the UCR of the health care service provided which shall be defined as the lesser of (a) the UCR for the current year or (b) the UCR for the year 2021. However, if the UCR for year 2021 is not

available, the UCR for the current year will be used.

vii. The history of network contracting between the parties

viii. May take into account any other information relevant to the value of the health care service provided

d. The actual amount awarded will be determined by the independent reviewer's decision after taking into account the factors described in paragraph c above. Within 45 days of the decision of the reviewer's decision, a party may file a civil action to determine the amount owed, if any, by the insurer to the nonparticipating provider for unanticipated emergency care under this act.

The proposed legislation for all insured health benefit plan coverages, not including state employees, is not expected to materially increase administrative expenses of Insurers. It is our assumption that Insurers will have this information readily available and the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

The proposed BR908 / SB150/GA, as described above, will increase premiums, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in premiums for health benefit plans, not including state employee plans, is approximately $0 to $9.06 per member per month (PMPM). This represents an increase of approximately 0% to 1.7% or approximately $0 to $42.6 million for all fully insured policies in Kentucky, not including state employees, due to the increased costs for health plans.

The proposed BR908 / SB150/GA, as described above, will increase the total cost of health care in the Commonwealth, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in the total cost of health care in the Commonwealth for health benefit plans, is approximately $0 to $9.06 per member per month (PMPM). This represents an increase of approximately 0% to 1.7% or approximately $0 to $42.6 million for all fully insured policies in Kentucky, not including state employees, due to the increased costs for health plans.

Our analysis included the use of data and statistics from L&E's medical manual, actuarial judgement, and a 2018 Annual Data Report provided by DOI.[1] Note, the proposed legislation defines the UCR that the independent reviewer shall consider when determining the amount awarded as the UCR for the year 2021. It is our opinion this may have some long-term mitigating impact; however, it's unlikely to have a material impact initially after being enacted.

Disclosure: L&E made several assumptions in performing the analysis. Several of these assumptions are subject to material uncertainty and it is not unexpected that actual results could materially differ from these estimates if a more in-depth analysis were to be performed. Examples of uncertainty inherent in the assumptions include, but are not limited to, 1) data limitations, 2) the percentage of insureds receiving unanticipated emergency health care services who are able and sign a potentially ineffective and/or confusing waiver acknowledging the use of a nonparticipating provider, 3) the number of nonparticipating providers that would utilize the dispute resolution process as opposed to accepting the Insurer's median reimbursement rate for participating providers, 4) how close the participating provider's median reimbursement rate compares to the average reimbursement rate currently paid to nonparticipating providers for unexpected emergency health care services and 5) how close the independent reviewer's final determined amounts will be to the average median in-network reimbursement rate compared to the nonparticipating provider's average billed charges.

[1] Additionally, as a reasonableness check on our assumptions, an article by Yale Institution for Social and Policy Studies entitled "Surprise! Out-of-Network Billing for Emergency Care in the United States" was used as a reference

Disclosure: Due to the material disclosure requirements required therein, we must acknowledge that the content of this report may not comply with Actuarial Standard of Practice No. 41 Actuarial Communications.

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March 12, 2020

Sharon P. Clark 3-12-2020

(Signature of Commissioner/Date)
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