S.19

Introduced by Senators Ayer, Mullin, Sirotkin, and White

Referred to Committee on Health and Welfare

Date: January 12, 2017

Subject: Health; health insurance; prescription drugs; out-of-pocket limits

Statement of purpose of bill as introduced: This bill proposes to delay for one year a requirement that the Department of Vermont Health Access apply for a federal waiver that would seek to ensure the continued availability of bronzelevel Exchange plans that meet Vermont's out-of-pocket prescription drug limit. The bill would also direct an advisory group developing options for bronze-level Exchange plans to report on potential changes to a statute or rule that would ensure the continued availability of these plans.

~~An act relating to preserving the out-of-pocket limit for prescription drugs in bronze-level Exchange plans~~

An act relating to allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 2016 Acts and Resolves No. 165, Sec. 6(f)(2) is amended to read:~~

~~(2) If the Director of Health Care Reform determines that the Secretary~~ has the necessary authority, then on or before March 1, ~~2017~~ 2018, the Commissioner of Vermont Health Access, with the Director's assistance, shall ~~apply for a waiver of the cost-sharing or actuarial value limitations, or both, in~~

order to preserve the availability of bronze-level qualified health benefit plans that meet Vermont's out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

Sec. 2. 2016 Acts and Resolves No. 165, Sec. 6(h) is amended to read:

(h) On or before February 1, 2018, the Department of Vermont Health Access shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance:

(1) enrollment trends in bronze-level qualified health benefit plans offered on the Vermont Health Benefit Exchange; and

(2) recommendations from the advisory group established pursuant to subsection (a) of this section regarding:

(A) continuation of the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i;

(B) options for statutory or regulatory changes to ensure the continued availability of bronze-level plans on the Vermont Health Benefit Exchange, including:

(i) identifying inflation factors as an alternative to the reference to 26 U.S.C. § 233(c)(2)(A)(i) in 8 V.S.A. § 4089i;

(ii) establishing a special fund to reimburse individuals with exceptionally high out-of-pocket prescription costs instead of imposing an annual out-of-pocket prescription drug limit; and

(iii) to the extent permitted under federal law, modifying other cost-sharing limitations applicable to health plans under Vermont law, such as 8 V.S.A. § 4088i (early childhood developmental disease cost-sharing parity), 8 V.S.A. § 4089 (no cost-sharing for sexual assault examination), 8 V.S.A. § 4089b (co-payment parity for primary mental health care and other primary care and for specialty mental health care and other specialty care), and 8 V.S.A. § 4099c (no cost-sharing for vasectomy), in order to preserve the availability of bronze-level qualified health benefit plans that meet Vermont's out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Sec. 1. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(9) ~~Prior to the adoption of rules, review~~ Review and approve, with recommendations from the Commissioner of Vermont Health Access, the benefit package or packages for qualified health benefit plans and reflective silver plans pursuant to 33 V.S.A. chapter 18, subchapter 1 ~~no later than January 1, 2013~~. The Board shall report to the House Committee on Health Care and the Senate Committee on Health and Welfare within 15 days following its approval of ~~the initial benefit package and~~ any ~~subsequent~~ substantive changes to the benefit ~~package~~ packages.

Sec. 2. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

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(10) "Reflective silver plan" means a health benefit plan that meets the requirements set forth in section 1813 of this title.

Sec. 3. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) "Health benefit plan" means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan offered through the Vermont Health Benefit Exchange ~~and~~ or a reflective silver plan offered in accordance with section 1813 of this title that is issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

* * *

Sec. 4. 33 V.S.A. § 1812(b) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the federal poverty level shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

* * *

(3) Cost-sharing assistance shall be available for ~~the same~~ silver-level qualified health benefit plans ~~for which federal cost-sharing assistance is available~~ purchased through the Vermont Health Benefit Exchange and shall be administered using the same methods as set forth in Section 1402 of the Affordable Care Act to the extent practicable.

Sec. 5. 33 V.S.A. § 1813 is added to read:

§ 1813. REFLECTIVE SILVER PLANS

(a)(1) In the event that federal cost-sharing reduction payments to insurers are suspended or discontinued, registered carriers may offer to individuals and employees of small employers silver-level nonqualified health benefit plans

that do not include funding to offset the loss of the federal cost-sharing reduction payments. These plans shall be similar to, but contain at least one variation from, silver-level qualified health benefit plans offered through the Vermont Health Benefit Exchange that include funding to offset the loss of the federal cost-sharing reduction payments.

(2) In its review and approval of premium rates pursuant to 8 V.S.A. § 4062, the Green Mountain Care Board shall ensure that:

(A) the rates for the silver-level qualified health benefit plans offered through the Vermont Health Benefit Exchange include funding to offset the loss of the federal cost-sharing reduction payments; and

(B) the rates for the reflective silver plans described in subdivision (1) of this subsection (a) do not include funding to offset the loss of the federal cost-sharing reduction payments.

(b) A reflective silver plan shall comply with the requirements of section 1806 of this title except that the plan shall not be offered through the Vermont Health Benefit Exchange.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.