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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/04/09

SPONSOR HBIC LAST UPDATED \_\_\_\_\_ HB 155/HHGACS/HBICS

SHORT TITLE Insurance Treatment for Autism Treatment SB \_\_\_\_\_

ANALYST Archuleta

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Public School Insurance Authority		\$2,900.0	\$3,100.0	\$6,000.0	Recurring	PSIA Health Benefits Fund
General Services Department		\$3,168.0	\$3,168.0	\$6,336.0	Recurring	GSD Health Benefits Fund
Retiree Health Care Authority		\$432.0	\$432.0	\$864.0	Recurring	RHCA Health Benefits Fund
Albuquerque Public Schools		\$1,368.0	\$1,368.0	\$2,736.0	Recurring	APS Health Benefits Fund
<b>Total</b>		<b>\$7,868.0*</b>	<b>\$8,068.0*</b>	<b>\$15,936.0*</b>	Recurring	See Above

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Estimates providing by responding agencies

Relates to Senate Bill 39 – Insurance Coverage For Autism Treatment  
 Relates to House Bill 751 – Insurance Coverage For Some Health Conditions

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Retiree Health Care Authority (RHCA)
- Public School Insurance Authority (PSIA)
- General Services Department (GSD)
- Department of Health (DOH)
- Public Education Department (PED)

## SUMMARY

### Synopsis of HBIC substitute

House Business and Industry Committee Substitute for House Bill 155 amends the Health Purchasing Act to require PSIA, RHCA, GSD and Albuquerque Public Schools (APS) to provide coverage for autism spectrum disorder treatment for children less than 18 years of age and from 19 years of age to 22 years of age if still in high school. Covered treatment includes speech therapy, occupational therapy, physical therapy and applied behavioral analysis with an annual limit of \$36,000 in 2010 to be adjusted annually using the medical component of the consumer price index with a lifetime limit of \$200,000. The bill includes a definition of autism spectrum disorder and permits insurers to exclude coverage for services received under the Individuals with Disabilities Educational Improvement Act for children ages three to twenty-two. Insurers may not deny coverage due to the treatment being habilitative or rehabilitative in nature and requires the same coverage in individual and group health insurance policies.

## FISCAL IMPLICATIONS

PSIA notes the following: currently, the PSIA medical plan excludes treatment for chronic conditions which include, but are not limited to childhood autism. PSIA insures approximately 12,500 children less than 18 years of age. Assuming an autism diagnosis rate of 6 per 1,000, PSIA estimates that as many as 75 children with autism may be covered under the plan. If each of these children hit the annual maximum, the impact may be as high as \$3,750,000 annually. This would increase claims costs resulting in increases to premiums.

According to the diagnosis rate mentioned above, GSD may have an estimated 88 participants that would qualify for autism treatment with an annual estimated cost of \$4.4 million. RHCA, indicates that this apply to an estimated 12 individuals in the program with an annual cost of \$432,000. For additional years a medical inflation factor of approximately 8 percent would be applied.

Treatment of Autism Spectrum Disorder is not currently part of benefit plan offerings provided by RHCA, PSIA, GSD and APS. Passage of this bill will likely result in the need to increase premiums or reduce benefits provided for other covered treatments.

## SIGNIFICANT ISSUES

According to HSD, an autism spectrum disorder (ASD) created in 2007 determined that this type of mandate would not have far reaching impact vis-à-vis providing services for individuals with ASD. The Federal Employee Retirement Income Security Act (ERISA) of 1974 exempts self-insured health plans (PSIA, RHCA, GSD, and APS) from such mandates. ERISA covered plans are exempt from state insure mandates. Because of the partial conflict with federal law, this act would create a disparity between self-insure health plans, such as the state employee's health plan, and publically available commercial health plans.

For covered dependent children who are eligible for services under the DOH Family Infant Toddler (FIT) program, PSIA reimburses DOH for family services up to \$3,500 per year per eligible child.

According to DOH, most health insurance policies have significant limits on speech, occupational and physical therapy benefits, both in the number of allowed visits and the circumstances in which those benefits are covered. Often these benefits are only authorized following a stroke, injury or acute neurological insult. Applied behavioral analysis is rarely, if ever, covered by health insurance policies. However, DOH notes that these very services have proved to be the most effective in the treatment of ASD.

According to DOH, advocates strongly support inclusion of applied behavior analysis as a covered benefit. Some researchers believe the benefit of these services is only proven effective for young children up to age seven. (“*Autism group lobbies for more insurance coverage*”, by Isadora Lapowsky, October 20<sup>th</sup>, 2008 NY Daily News.) However, other researchers see significant benefit from these services for individuals with ASD of all ages. (“*The Promise of ABA Crating Meaningful Lives Throughout Adolescence and Adulthood*”, by Peter F. Gerhardt. Ed.D., Autism Advocate, fourth edition 2008, Volume 53, No 4,

Six states (Texas, Pennsylvania, Arizona, Florida, South Carolina and Louisiana) have recently implemented similar legislation.

Passage of House Business and Industry Committee Substitute for House Bill 155 may result in the need to increase premiums for private health insurance coverage, making it more difficult for families to afford private health insurance and may push businesses may choose to stop offering health insurance to their employees.

## **PERFORMANCE IMPLICATIONS**

According to PSIA, the bill will increase PSIA’s self-funded claim costs and will negatively impact PSIA’s performance standard of premium increases within 3 percent of the industry average.

## **ADMINISTRATIVE IMPLICATIONS**

According to PSIA and RHCA, there would additional work associated with amending plan documentation and notifying plan members. Both agencies have that the administrative implications would be manageable.

## **RELATIONSHIP**

Relates to Senate Bill 39 providing for similar insurance coverage; however, SB 39 does not amend the Health Care Purchasing Act.

## **TECHNICAL ISSUES**

Under the Health Care Purchasing Act, the PSIA medical plan excludes payment for pre-existing conditions for six months for timely enrollees and eighteen months for late enrollees. According to PSIA, paragraph D, on page 3, states “an insurer shall not deny coverage for an individual because the individual is diagnosed for an autism spectrum disorder.” It is not clear to PSIA whether this bill prohibits the applications of the pre-existing conditions clause provision for any diagnosis of autism.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Insurance plans would continue to determine their own coverage policies with regard to autism spectrum disorder. Patients with autism spectrum disorder would need to continue to access community programs for therapy services.

DA/mt