

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/09
 SPONSOR SFL LAST UPDATED 3/17/09 HB _____
 SHORT TITLE Insurance Coverage for Autism Treatment SB CS/39/SFLCS
 ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Potentially Significant*			Recurring	See Below

(Parenthesis () Indicate Expenditure Decreases)

*The costs identified in the fiscal implications section are estimates provided by the responding agencies potentially affected by the proposed legislation. Although, the bill does not amend the Health Care Purchasing Act as it applies to public employees, it is likely that each entity would comply with the intent of the legislation.

Relates to House Bill 155

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Insurance Authority (PSIA)
 General Services Department (GSD)
 Department of Health (DOH)
 Health Policy Commission (HPC)

SUMMARY

Synopsis of SFL Substitute

Senate Floor Substitute for Senate Public Affairs Committee Substitute for Senate Bill 39 adds 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. It clarifies that coverage is not required on the following types of insurance policies: Medicare supplement, long-term care, disability income, specified disease, accident only, hospital indemnity or other limited health policies.

The previous Substitute for Senate Bill 39 amends medical insurance contracts, group and blanket health insurance and Health Maintenance Organizations (HMO's) articles by adding a new section of Chapter 59A, Article 22 NMSA 1978 to require coverage for autism spectrum disorder

(ASD) for eligible individuals under the age of 19, or eligible individuals who are age 22 or younger and enrolled in high school. Proposed coverage includes well-baby and well-child screening for diagnosis of the presence of ASD and treatment through speech therapy, occupational therapy, physical therapy and applied behavioral analysis. The annual maximum benefits allowed would be \$36,000 with a total lifetime maximum benefit of \$200,000. The bill prohibits an insurer from denying coverage for medically necessary services or refuses to contract with, renew, reissue or terminate coverage for an individual diagnosed with a developmental disability.

FISCAL IMPLICATIONS

GSD, PSIA, RHCA and APS currently comply with all state-mandated coverage's placed on commercial plans and would carefully consider whether it should be their intent to deviate from this. While it will be a decision for each of the entities affected, it is possible that these groups would likely include this coverage for autism (and maintain consistency with all other state mandates) even though not required by law.

The fiscal impact is modeled assuming the following organizations would provide the above mentioned coverage:

PSIA – Indeterminate to \$2,900.0 Annually (PSIA Health Benefits Fund)

GSD – Indeterminate to \$3,168.0 Annually (Employee Group Health Benefits Fund)

RHCA – Indeterminate to \$432.0 Annually (RHCA Health Benefits Fund)

APS – Indeterminate to \$1,368.0 Annually (APS Health Benefits Fund)

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 13,900 children less than 21 years of age. Assuming an autism diagnosis rate of 6 per 1,000, PSIA estimates that as many as 83 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 \$2,988,000 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 \$3,168,000 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.

According to APS, medical plans cover well baby and well child screening for the diagnosis of the presence of ASD within the periodicity schedule as recommended by the American Academy of Pediatrics. Medically necessary speech therapy, occupational therapy and physical therapy is covered under the APS medical plans provided the child is making sufficient progress and the service is not a duplicate of a service being provided by the educational system, Medicaid, waiver or any other program. Applied behavioral analysis is considered an educational intervention and therefore is not covered by our medical plans. APS covers approximately 5,657 children under age 22. The Centers for Disease Control (CDC) estimates that 1 in 150 children

born in the U.S. are diagnosed with some form of autism. APS estimates that approximately 38 children have been diagnosed with autism. If each of the 38 children utilized the annual \$36,000 maximum, the cost impact would be \$1,368,000

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.

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

DOH also notes that the passage of Substitute for Senate Bill 39 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 be additional work associated with amending plan documentation and notifying plan members. Both agencies have that the administrative implications would be manageable.

TECHNICAL ISSUES

The Employee Retirement Income Security Act of 1974 (ERISA) excludes such mandates from being applied to health insurance offered through federal, state and local government entities or

church organizations. Given the large percentage of New Mexico families employed through such entities, many children with ASD may still be left without access to these services through their health insurance.

According to GSD, the Risk Management Program is exempted from the Insurance Code under Section 59A-1-16. Therefore, it is unclear whether or not this would apply to GSD.

ALTERNATIVES

House Bill 155

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:mc