

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 (www.nmlegis.gov). 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 02/22/13

SPONSOR Steinborn LAST UPDATED _____ HB 366

SHORT TITLE Health Insurance Requirements SB _____

ANALYST Trowbridge

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown*	Unknown*	Unknown*	N/A	N/A

*See "Fiscal Implications" below
(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to HB 168/SB 221 – Health Insurance Exchange Act; HB 262/SB 226 Health Security Act; HB 373 Native American Mandatory Medicaid Act; HJR 11 Health Care as a Fundamental Right.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO)
Human Services Department (HSD)
Public Schools Insurance Authority (PSIA)
Retiree Health Care Authority (RHCA)
General Services Department (GSD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill (HB) 366 would amend sections of the Health Care Purchasing Act, Health Maintenance Organization Law, Medical Care Savings Account Act, Small Group Rate and Renewability Act, Health Insurance Portability Act, Health Insurance Alliance Act, Patient Protection Act and the Nonprofit Health Care Plan Law.

The main areas in each of these acts and laws that would need to be amended via this bill are:

- Provide coverage for individuals under that age of twenty-six under their parents’ coverage
- Prohibit lifetime or annual limits on coverage

- Ban preexisting conditions and excessive waiting periods (this includes for individuals under the age of nineteen)
- Prohibit rescissions of coverage except in cases of fraud or intentional misrepresentations
- Require insurers make rebates to consumers when administrative losses exceed the statutory maximum
- Provide for smoking and tobacco cessation coverage
- Coverage for immunizations, colorectal cancer screenings, cytological and Human Papillomavirus screenings
- Provide for breast reconstruction coverage following mastectomy or lymph node dissection due to breast cancer
- Provide for substance abuse treatment
- Prohibit employer-sponsored from discriminating in favor of highly compensated individuals
- Provide for several medical screening such as breast cancer, high blood pressure, colorectal cancer, skin cancer, lipid disorders, diabetes, behavioral health, dietary, osteoporosis, fall prevention, HIV, hepatitis C and others
- Provide for extended coverage for disabled children
- Providing for obstetrical/gynecological and pediatric primary care
- Provide for renewability of coverage
- Limit community rating and administrative loss ratios
- Provide for the Prove for the rescission or breach of nonprofit health care plan subscribers contracts in cases of fraud or intentionally misleading representation
- Allow for renewability and special enrollment
- Provide for grievance procedures and formal healings on violations on the Patient Protection Act

The Human Services Department (HSD) states that due to the many laws and acts that would need to be amended and the main areas listed above, this bill is large but appears to be duplicative in many areas. This is because many areas of the New Mexico Insurance Code would need to be amended in several areas to comply with several federal minimum requirements. These federal requirements are found in the Patient Protection and Affordable Care Act of 2010 (PPACA). In short many of these areas may need to be amended in order to comply with the federal law.

FISCAL IMPLICATIONS

The Attorney General's Office (AGO) reports this overhaul will require significant resources from the Department of Insurance to implement. The General Services Department (GSD) notes that the State of New Mexico Employee Benefit Plans were revised and implemented on July 1, 2011 to provide coverage for children up to age 26.

SIGNIFICANT ISSUES

The Department of Health (DOH) indicates that HB 366 is necessary to ensure the New Mexico statutes related to health insurance align with the federal Affordable Care Act. Some changes noted include:

- In regard to tobacco use, the rate difference between any one person who smokes, and any person who does not use tobacco shall not differ by more than 150 percent.
- Health insurance policies shall provide coverage for childhood immunizations in accordance with the current schedule of immunizations recommended by the American Academy of Pediatrics, or the Advisory Committee on Immunization Practices of the CDC, whichever provides greater coverage.
- Health insurance policies shall offer maternity benefits, must offer coverage for smoking cessation treatment and shall offer augmented counseling tailored to pregnant women who smoke.
- Autism Spectrum Disorder diagnosis and treatment shall not be subject to annual and lifetime cost limits.
- Preventive services benefits for aspirin regimen, high blood pressure screening, breast cancer screening, lipid disorders screening, colorectal cancer screening, depression screening, behavioral dietary counseling, obesity counseling and screening, osteoporosis screening, falls prevention, skin cancer counseling, human immunodeficiency virus screening, hepatitis C screening, and alcohol misuse screening and counseling are detailed in statutory language.
- Preventive services benefits for children are outlined.
- Preventive services benefits for pregnant women and reproductive health are outlined.
- As of August 1, 2012, all new health plans must cover a range of women’s preventive services without cost sharing. These services have been identified by the Institute of Medicine and endorsed by the Health Resources and Services Administration. They include:
 - Breastfeeding support, supplies, and counseling;
 - Screening and counseling for interpersonal and domestic violence;
 - Screening for gestational diabetes;
 - DNA testing for high-risk strains of HPV;
 - Counseling regarding sexually transmitted infections, including HIV;
 - Screening for HIV;
 - Contraceptive methods and counseling; and
 - Well woman visits. [*National Women’s Laws Center Women’s Preventive Services in the Affordable Care Act: What’s New as of August 1, 2012* Fact Sheet;
 - <http://www.nwlc.org/resource/women%E2%80%99s-preventive-services-affordable-care-act-what%E2%80%99s-new-august-1-2012>] (Items 3, 4, 7 and 8 were not addressed in this bill.)

DOH notes that beginning August 1, 2012 all new insurance plans are required to cover the additional Women’s Preventive Services without cost sharing.

Additionally, DOH states that health plans that existed before the health care law are considered “grandfathered” into the new system. Grandfathered plans don’t necessarily have to follow the new preventive services coverage rules. This means that the plan can continue to operate just as it has until it makes significant changes to the plan. These changes include: decreasing benefits; increasing co-insurance, co-payments, or deductibles or out-of-pocket limits by certain amounts; decreasing premium contributions by more than five percent; or, adding or lowering annual limits. Since most plan changes take effect at the beginning of a new plan year, the requirements will be in effect for most plans on January 1, 2013.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HSD states that HB 22, as amended by HHGIC, reflects the changes to the definition of “autism spectrum disorder” that are contained in Section 16 of HB 366.

TECHNICAL ISSUES

The AGO indicates that references to the Department of Insurance being a division of the Public Regulation Commission should be deleted in light of last year’s constitutional amendment separating the two agencies.

The Public Schools Insurance Authority (PSIA) points out that Page 37, Paragraph C, Lines 15 – 17 appears to exclude pre-existing conditions for a period of 90 days. PSIA states that this would not be allowed.

HSD reports that due to the fact that health insurance coverage provisions are duplicated or otherwise distributed among several sections of the Insurance Code (as well as the Health Care Purchasing Act), HB 366 amends the Health Care Purchasing Act, the Medical Care Savings Account Act and the following sections of the Insurance Code: the Health Maintenance Organization Law, the Nonprofit Health Care Plan Law, the Small Group Rate and Renewability Act, the Health Insurance Portability Act, the Health Insurance Alliance Act, and the Patent Protection Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HSD states that the New Mexico Insurance Code may not be in compliance with federal minimum requirements. GSD reports that amending healthcare-related acts, codes and laws will not occur. And the PRC states that parties will have to reference the statutes and rules of the federal Affordable Care Act as well as New Mexico statutes and rules in order to know the regulatory requirements relating to health care coverage in New Mexico.

TT/blm