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 and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	01/16/14		
SPONSOR	Keller	**LAST UPDATED**	01/24/14	**HB**	
SHORT TITLE	Brain Injury Health Coverage			**SB**	52
				ANALYST	Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
General Services Department (GSD)
Office of Superintendent of Insurance (OSI)
Governor's Commission on Disability (GCD)

SUMMARY

Synopsis of Bill

Senate Bill 52 adds requirements to the Health Care Purchasing Act, The New Mexico Insurance Code, The Health Maintenance Organization Law and the Nonprofit Health Care Plan Law related to brain injury.

The entities will be required to include the following coverage in all products under their respective jurisdiction:

1. cognitive rehabilitation therapy and rehabilitation;
2. neurocognitive therapy and rehabilitation;
3. neurobehavioral, neurophysiological, neuropsychological and psychophysiological testing and treatment;
4. neurofeedback therapy;
5. remediation for treatment of a brain injury; and
6. post-acute transition services and community reintegration services, including outpatient day treatment services or other post-acute care treatment services related to a brain injury.

In addition, the bill prohibits a lifetime limit on post-acute care related to brain injury.

To ensure that appropriate post-acute care is provided, coverage must also include the following at a reasonable expense for periodic reevaluation an individual who:

1. has incurred a brain injury;
2. has been unresponsive to treatment provided at a time close to the acquisition of the brain injury; or
3. becomes responsive to treatment at a date remote from the date of acquisition of the brain injury.

Determination of the reasonableness of the cost shall include consideration of the following factors:

1. cost;
2. the time that has transpired since the previous evaluation of necessity and reasonableness;
3. any difference in the expertise of the physician or practitioner performing the evaluation;
4. changes in technology; and
5. advances in medicine.

Coverage is subject to applicable co-pays, deductibles and other benefits and services. The brain injury services can be provided at a hospital, and acute care or rehab hospital, or an assisted living facility. Annual notice that includes benefits descriptions and a statement protecting those benefits even if hospitalization is not required must be provided.

FISCAL IMPLICATIONS

No fiscal implications were identified by the responding agencies.

SIGNIFICANT ISSUES

GSD notes that under Section 1-H, each publicly funded health care provider shall publish information for enrollees regarding coverage for services related to brain injury on the web site of the Risk Management Division of the General Services Department (GSD). The GSD cabinet secretary is required to adopt and promulgate rules for the implementation of this requirement.

The Risk Management Division has confirmed that the state group medical plans cover everything outlined in the bill with no limitations. As a result, this legislation will not impact the state group plan.

OSI reports that The Center for Consumer Information & Insurance Oversight (OCCIIO), that is implementing the Affordable Care Act (ACA) has stated but not documented that state mandates enacted after the effective date of the ACA that are not "evidence based" are not entitled to federal subsidy. OCCIIO has not provided any cite to the ACA or published any regulations to support the position that states are required to pay.

The states are the primary regulators of insurance under federal law, 15 U.S. Code § 1011, the McCarran-Ferguson Act and nothing in the ACA amends the Act. However the federal government may mandate minimum requirements.

GCD provides that currently there are no New Mexico facilities offering post acute rehabilitation. New Mexicans who need the services either do without the service, or are sent to surrounding states for the therapies and treatment that SB52 would cover. The enactment of SB52 may allow for service providers to develop within the state.

ANA/jl