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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/19
LAST UPDATED 2/15/19 **HB** 138/aHHHC

SPONSOR Thomson

SHORT TITLE Mail-Order Pharmacy Health Coverage **SB** _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		More than \$2,000.0	More than \$2,000.0	More than \$4,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 Public School Insurance Authority (PSIA)
 Regulation and Licensing Department (RLD)
 Office of the Superintendent of Insurance (OSI)

Responses Not Received From

General Services Department (GSD)
 Retiree Health Care Authority (RHCA)
 Public Education Department (PED)

SUMMARY

Synopsis of Amendment

The House Health and Human Service Committee amendment adds section 6 to the bill, which would enact a new section to the Pharmacy Benefits Manager (PBM) Regulation Act (Section 59A-61-1 NMSA 1978) to apply the same requirements of use of community pharmacies at parity with mail-order pharmacies as with the other payors already identified in the bill.

Synopsis of Bill

House Bill 138 inserts new language into sections of statutes to require health insurers to allow local community bricks-and-mortar pharmacies to provide patients' prescriptions which would otherwise be required by those insurers to be filled at chosen mail-order pharmacies.

Each of the sections of the bill address different types of insurers, covered by different sections of state statutes, but all contain the same language. The common provisions are

- 1) community pharmacies that accept the same terms and conditions offered the on-line or mail-order pharmacy,
- 2) an insurer may not apply cost sharing (defined as co-payment or coinsurance or other conditions) on patients wishing to use a participating community pharmacy that would be different than those applying to the mail-order or online pharmacy, and
- 3) any provision of a plan that contravenes these principles would be void.
- 4) participating community pharmacies would have to agree to accept the group plan’s contracted payment rate.
- 5) participating community pharmacies could not have committed fraud, as determined by a conviction or settlement in a case alleging fraud, waste or abuse within the past two years. Mail order pharmacies would also have to meet this standard.

The sections applying to the various forms of insurance as follows:

Section of HB 138	Section in Statute; NMSA 1978	Applies to these insurers
1	Health Care Purchasing Act, Section	Health care purchasing act provided group health coverage, including self-insurance offering prescription coverage
2	Health Insurance Contracts, 59A-22 NMSA 1978	Individual or group plans offering prescription coverage
3	Group and Blanket Health Insurance Contracts, 59A-23 NMSA 1978	Individual or group plans offering prescription coverage
4	Health Maintenance Organization Law 59-46 NMSA 1978	Health Maintenance organization contracts offering prescription coverage
5	Non-Profit Health Care Plan law, 59-A-47 NMSA 1978	Non-profit health plan coverage with prescription coverage

FISCAL IMPLICATIONS

Although other responding agencies did not indicate a fiscal impact, PSIA noted a large potential impact on its programs, as follows:

Currently, NMPSIA requires all specialty drugs to be filled by the Express Scripts Specialty Mail-Order Pharmacy (Accredo) in order to contain costs and to manage patients closely with counseling, education, ability to communicate with pharmacists at the Express Scripts Resource Center, and follow-up to ensure there is no gap in care, and ensuring the specialty drugs are shipped timely in order to avoid care disruption.

If this bill were enacted as written, NMPSIA would have to amend its contract with Express Scripts and remove the exclusive Accredo arrangement and open the specialty network to other pharmacies. This would impact NMPSIA’s specialty price points. The fiscal impact would vary based on how many pharmacies would be willing to offer the exclusive specialty rates.

Further, removing the exclusive Accredo arrangement removes NMPSIA’s ability to continue offering the Saveon Program. This program registers members to receive financial copay assistance from drug manufacturers to cover the copayments associated with these drugs. NMPSIA has averaged an annual savings of approximately \$2.13 million under the Saveon Program. Members under the Saveon Program have a \$0 copay for these specialty drugs, so members would also have an increase in copays for certain specialty drugs from a \$0 copay to a \$55, \$80, or a \$130 copay depending on the specialty drug prescribed.

NMPSIA is a self-insured plan and has relied on the cost savings of the Saveon Program to mitigate larger than usual premium increases for members and school districts/charter schools.

It is possible that other IBAC agencies¹ would have proportionate costs.

SIGNIFICANT ISSUES

OSI makes the following notes:

Currently, pursuant to 45 C.F.R. § 156.122, a health plan in the individual and small group market offering prescription drug coverage shall allow enrollees access to prescription drug benefits at in-network retail pharmacies unless the drug is subject to restricted distribution by the U.S. Food and Drug Administration; or the drug requires special handling, provider coordination, or patient education that cannot be provided by a retail pharmacy. Pursuant to federal regulation, individual and small group health plans may charge enrollees a different cost-sharing amount for obtaining a covered drug at a retail pharmacy, but all cost sharing will count towards the plan’s annual out-of-pocket limit and must be counted towards the plan’s actuarial value.

Currently, plans offered to public employees via the Health Care Purchasing Act either prohibit use of retail pharmacies for recurring prescriptions or charge enrollees increased cost-sharing for using retail pharmacies.

As of 2016, prescriptions fulfilled by mail account for nearly a quarter of total U.S. spending on prescriptions (before rebates and discounts) according to a report issued by IQVIA Institute for Human Data Science. Requirements that enrollees only use mail order pharmacies can create disruptions in access to medicine. Mail delivery in rural areas can be less efficient. Additionally, many areas around New Mexico see significant rates of mail theft. A recent report from Kaiser Health News also found that temperature extremes can impact on mail order medications.

LAC/gb/al

¹ The Interagency Benefits Advisory Council (IBAC agencies include Albuquerque Public Schools (APS), the General Services Department (GSD), the New Mexico Public School Insurance Authority (NMPSIA), and the Retiree Health Care Authority (RHCA).