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

SPONSOR: Cisneros DATE TYPED: 02/22/01 HB

SHORT TITLE: Coverage for Experimental Drug Treatment SB 571

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Public Regulation Commission (PRC)
Attorney General's Office (AG)
Retiree Health Care Authority (RHCA)
Health Policy Commission (HPC)
General Services Department (GSD)

SUMMARY

Synopsis of Bill

SB 571 requires that insurers and individual and group health insurance policies and plans provide coverage for FDA approved experimental treatments or procedures.

Significant Issues

The AG has pointed out that "once the FDA has approved a treatment or procedure, it is no longer experimental" so that SB 571 as it is currently written will not extend coverage in any way to anybody.

The most difficult area in managed health care insurance is the area of defining exactly what "experimental" treatment means. It is also the source of a large number of grievances filed with the Superintendent of Insurance. Experimental treatment is often the only hope for patients in great pain or terminally ill. Currently many health insurance companies exempt this coverage from their contracts which means that access is denied to patients for potentially life saving treatment. On the other hand this treatment is often difficult to evaluate and does not generally have a high success rate. It is often very expensive.

FISCAL IMPLICATIONS

GSD and RHCA both indicated that providing coverage for experimental treatments and procedures could have a substantial impact on health insurance costs. It was not possible to estimate the impact because of the unknown number of participants incurring unknown costs. However, the impact would drive up both employer and employee premium contributions and GSD indicated they might have to request a supplemental appropriation to accommodate the additional expenses.

ADMINISTRATIVE IMPLICATIONS

The PRC says that SB 571 requires that all health insurers file policy forms or endorsements with the Superintendent for approval. This would increase form filings.

CONFLICT/RELATIONSHIP

- Relates to SB 240, Insurance Coverage of Cancer Clinical Trials.
- Conflicts with the language in SB 719, which mandates insurance coverage by amendment to the insurance code and creates a fund for experimental treatment

SUBSTANTIVE ISSUES

HPC provided the following:

- Mandating coverage of specific health care services to the health insurance industry may increase premiums to meet increased expenditures and operating costs.
- The health insurance industry does not favor mandated service coverage as such measure increase operating costs and may make New Mexico a less attractive business environment to the insurance industry. This would in turn reduce competition in the health insurance market thereby increasing health insurance costs to the consumer and even driving some insurers out of New Mexico.
- Currently under many health insurance policies experimental treatment is covered with required pre-approval. In general, insurers depend heavily on peer-reviewed medical literature and on the opinions of experts inside and outside of their companies to decide whether they will cover a new or experimental treatment. The reason given for the pre-approval requirement is that insurers want to be certain that the case meets coverage restrictions and that the therapy is medically appropriate "for that particular patient," while for difficult cases, some groups use a panel of experts from outside of the plan to mediate the determination.
- The enactment of SB 571 may expand access to experimental treatments and procedures for New Mexicans, however many New Mexicans will continue to have limited financial access to these treatments or basic health care services:
- The federal Health Care Financing Administration Medicaid (HCFA) regulations allow experimental treatments and procedures on a case by case basis only, therefore Medicaid benefits could not be expanded to include broad based coverage for all Medicaid recipients.
- New Mexico workers contribute a higher percentage of their income to health insurance premiums than the national average. This is partly attributed to the nature of the New Mexico economy and the fact that New Mexico has more firms with low wages and less with unionized workers than the U.S. There are several bills pending in the 2001 session that would serve as incentives for more employers, particularly small employers, to offer insurance to their employees. <u>The potential increase in insurance premium costs that may result from the service mandate that SB 571 proposes may serve as a further disincentive for employers to offer health insurance.</u>
- Only twelve states have created legislation requiring insurers and HMOs to provide coverage,

under certain conditions, for treatments labeled as experimental or "investigative." Those initiatives have explicitly limited applications to a particular treatment, a specific disease, or a narrow class of diseases

- At the present time, there are no state statutes that apply to the broad spectrum of diseases for which certain treatments are deemed experimental in nature; there are only disease-specific and treatment-specific statutes of this nature. This has resulted in allegations that victims of certain diseases are being treated inequitably or even discriminated against.
- Access to clinical trials and experimental medical treatments is extensively debated in the scientific literature. Significant policy initiatives include revised clinical guidelines by the National Cancer Institutes to ensure greater access to cutting edge cancer clinical trials for women and minorities.
- A Duke University study found that the frequency of approved coverage was not influenced by the pretreatment clinical condition of the patients, the design of the study, the phase of the study, the year in which the request was made, or the patients response to other therapy. It found that the denials on experimental grounds were arbitrary as they varied among insurers, and that they were even inconsistent within individual carriers for patients in the same study protocol.

DW/ar/njw