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

SPONSOR Ortiz y Pino **ORIGINAL DATE** 02/17/11 **LAST UPDATED** **HB**

SHORT TITLE Health Insurers to Not Discriminate Providers **SB** 339

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Health Policy Commission (HPC)
Human Services Department (HSD)
Retiree Health Care Authority (RHCA)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 339 enacts new sections of the Health Care Purchasing Act and the New Mexico Insurance Code to prohibit insurers from discriminating in provider participation or reimbursement against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.

According to Health Policy Commission (HPC) the bill enacts a new section of the:

- Health Care Purchasing Act such that, group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall not discriminate with respect to participation or reimbursement under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.
- New Mexico Insurance Code, Chapter 59A, Article 22 NMSA 1978 regarding health insurance contracts such that an individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall not discriminate with respect to participation or reimbursement under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.

- New Mexico Insurance Code, Chapter 59A, Article 23 NMSA 1978 regarding group and blanket health insurance contracts such that a blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state shall not discriminate with respect to participation or reimbursement under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.
- Health Maintenance Organization Law such that an individual or group health maintenance organization contract delivered or issued for delivery in this state shall not discriminate with respect to participation or reimbursement under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.
- Nonprofit Health Care Plan Law such that an individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall not discriminate with respect to participation or reimbursement under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification pursuant to Chapter 61 NMSA 1978.
- Repeals Section 59A-22-32 NMSA 1978 of the New Mexico Insurance Code relating to freedom of provider choice.

FISCAL IMPLICATIONS

In general, it is the Human Services Department's (HSD) opinion, that the Insurance Code and the Health Care Purchasing Act does not apply to the Medicaid program unless it specifically provides that it does. The bill makes no reference to Medicaid managed care. Thus, in HSD's view, as presently drafted, the bill is not applicable to HSD/MAD.

This legislation would not have any direct, material impact on the Retiree Health Care Authority (RHCA).

SIGNIFICANT ISSUES

The bill would not require an insurer to contract with any health care provider willing to abide by the terms and conditions for participation or reimbursement that the group coverage establishes; or refrain from establishing varying reimbursement rates based on quality or performance measures.

ADMINISTRATIVE IMPLICATIONS

According to the PRC:

Approximately 20 to 30 complaints a year in Managed Care turn fully or partially on the proposed repealed section. A narrowing of patient's rights may lead to an undetermined increase in patient denials.

The PRC's Consumer Division is responsible for Health Insurance indemnity plans (5 to 7% of the market). Under NM Law and federal health reform they are required to write health appeal regulations. They are in the process of doing so. This may result in additional denials.

CONFLICT, DUPLICATION, RELATIONSHIP

The bill duplicates HB334

The bill relates to:

- HB10 (Reimbursement Outside of Preferred Providers),
- SB22 (Health Care Provider Protection Act), and
- SB227 (Benchmark Usual & Customary Rates).

This bill conflicts SB 175 which expands the scope of 59A-22-32 NMSA 1978 while this bill repeals it.

TECHNICAL ISSUES

The PRC reports:

- p. 2 l. 10 – "individual health insurance plan" – is not a defined term in the Insurance Code
- p. 2 l. 11 – "group health insurance plan" – is not a defined term in the Insurance Code
- "health insurance is defined in: 59A-7-3, 59A-54-3 F, and 59A-56-3O.
- p.3 l.1 – "blanket health insurance policy" is not a defined term in the Insurance Code.
- p.3 l.1 – "group health insurance policy" is not a defined term in the Insurance Code.
- P3. l.5 – "health care provider" is defined in: 59A-22-40 D. (2), 59A-22A-3 F, 59A-42A-2 F, 59A-46-42 C. (2), and 59A-57-3 H.
- P.3 l.17 – "health maintenance organization" is a defined term in: 59A-23E-2 T, 59A-37-2 J, 59A-46-2 M, 59A-54-3 G and 59A-56-3 P.
- P. 3 l.20 – "health care provider is a defined term in: 59A-22-40 D. (2), 59A-22A-3 F, 59A-46-42 C. (2) and 59A-57-3 H.
- P.4 l. 7 "insurance" is defined at 59A-1-5 and 59A-12-10 D.

OTHER SUBSTANTIVE ISSUES

HPC adds:

The new Section 2706(a) of the (federal) Public Health Service Act, created by Section 1201 of the (federal) Patient Protection and Affordable Care Act ("PPACA") provides that "A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law. This section shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures."

DL/svb