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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/17/15  
**LAST UPDATED** 03/14/15    **HB** 273/HHCS  
**SPONSOR** HHCS  
**SHORT TITLE** Mail Order and Other Pharmacy Access Parity    **SB** \_\_\_\_\_  
**ANALYST** Dunbar

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		*Minimal	* Minimal	* Minimal	Recurring	Retiree Health Care Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Reference is made to Fiscal Implications

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

#### Responses Received From

Office of the Superintendent of Insurance (OSI)  
 Retiree Health Care Authority (RHCA)  
 Regulation and Licensing Department (RLD)  
 Human Services Department (HSD)

### SUMMARY

HB 273/HHCS amends sections of the Health Care Purchasing Act, The New Mexico Insurance Code, The Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, to provide enrollees with parity of access and limit cost sharing differentials for certain drugs between participating mail order pharmacies and participating community pharmacies.

As of January 1, 2017, HB 273/HHCS denotes that group health coverage plans offered, or renewed under the laws noted above that offer a prescription drug or device benefit, shall permit an enrollee to fill a specified covered prescription at the option of the enrollees at any participating community pharmacy or participating mail-order pharmacy; provided that the participating community pharmacy accepts reimbursement at a rate comparable to that of a participating mail-order pharmacy.

HB 273/HHCS prohibits the organizations that are governed by the above mentioned laws from imposing co-pay differentials between a participating community pharmacy and mail order

pharmacy at a rate that exceeds one hundred fifty percent of any copayment, coinsurance or other cost –sharing condition imposed on a specified covered prescription filled at a participating mail-order pharmacy.

The bill clarifies that a manufacture can place a specialty drug in a limited distributed network, which includes the use of one or more specialty pharmacies.

The bill defines participating community pharmacy, and participating mail order pharmacy.

HB 273/HHCS removes the amendment in SB 273 pertaining to health coverage under the Public Assistance Act. This action addressed the concerns of HSD.

### **FISCAL IMPLICATIONS**

None for HSD. The bill as substituted in committee no longer amends the public assistance act.

NMRHCA reports no material financial impact. Wording in the substitute bill greatly changes the impact on NMRHCA by changing the bill’s scope from “any covered prescription” to “specified covered prescription” which is defined in Section 1D(3) as basically specialty pharmaceuticals. The revised bill would impact a very small percentage of NMRHCA’s covered prescriptions and would, therefore, have a minimal financial impact initially.

OSI states that Fiscal implications are unknown at this time. The proposed changes will impact the form review time, which may require additional staff.

### **SIGNIFICANT ISSUES**

HB 273/HHCS defines a specialty drug as one that:

- Is structurally complex
- Is used to treat a complex chronic condition or a rare condition
- Requires special handling or special delivery mechanism
- Involves a significant degree of patient education and monitoring to minimize adverse events
- Requires expert medical management to optimize health outcomes

HB 273/HHCS explains that specified covered prescription means a drug, for which a group health plan has agreed to make reimbursement under the terms of the group health plan, to treat any of the following conditions:

- Cancer
- Hepatitis A, B or C
- Human immunodeficiency virus
- Multiple sclerosis
- An autoimmune disorder

RLD makes the following remark:

Pharmacy Benefit Managers (PBM) attempt to limit access to pharmacy choice. PBM do this by requiring a patient to go to a specific pharmacy; generally a mail order pharmacy. If a patient wishes to go to the pharmacy of their choice, the patient can pay a substantially higher cost. The pharmacy of the patient's choice is generally a local community pharmacy. This bill finds a middle ground by allowing the patient to either use a mail order pharmacy or a community pharmacy. If the patient does choose the community pharmacy, the patient may pay a higher copayment. But the higher copayment cannot exceed 150% of the mail order pharmacy copayment.

### **ADMINISTRATIVE IMPLICATIONS**

NMRHCA notes that future administrative fees charged by any pharmaceutical benefits manager will increase by an indeterminate amount as New Mexico's regulatory environment will be considered by industry to be unfriendly to their existing business model."

NMRHCA states that all PBM's view even this revised legislation as hostile to their industry and are actively in opposition.

BD/bb