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

SPONSOR Stefanics **ORIGINAL DATE** 1/24/19 **LAST UPDATED** **HB**

SHORT TITLE Limitations on Health Coverage and Contracts **SB** 112

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$140.0-\$2,300.0	\$140.0-\$2,300.0	\$420.0-\$6,900.0	Recurring	General Fund, PSIA Benefits Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Office of Superintendent of Insurance (OSI)
Public School Insurance Authority (NMPSIA)
Regulation and Licensing Department (RLD)
Retiree Health Care Authority (RHCA)
University of New Mexico Health Sciences Center (UNMHSC)

Responses Not Received From
General Services Department/Risk Management Division

SUMMARY

Synopsis of Bill

Senate Bill 112 (SB112) proposes limiting insurance carriers making changes to drug formularies less than 90 days prior to the beginning of the plan year in which these changes are to take effect or any time during a current plan year. Prohibited changes include reclassifying a drug to a higher tier of the drug formulary, reclassifying a drug from a preferred to a non-preferred classification, increasing cost-sharing, removing the drug from the formulary, establishing prior authorization, imposing or modifying a drug's quantity limit, or imposing a step-therapy restriction. The bill would exempt drugs that have been marked unsafe by the federal food and drug administration or removed from the market for any reason to be eliminated from the drug formulary.

The provisions of the bill would apply to coverage offered in the state regulated individual and small group markets, as well as coverage offered to public employees through the Health Care Purchasing Act.

FISCAL IMPLICATIONS

UNM Health Sciences Center notes the bill's proposed change to the pharmaceutical timeline could have a fiscal impact on state entities that self-insure for pharmaceutical benefits. Any drug price changes that occur between 120 and 90 days would be borne by the state agency and could not be shifted to insured members in the form of a change in formulary or price increase.

The Retiree Health Care Authority notes the bill could limit the agency's ability to quickly adapt to rapid changes in the pharmaceutical market, as it is not uncommon for pharmaceutical manufacturers to increase the prices of their products multiple times a year, as well as introduce new drugs to the market. If changes can only be made one time per year, then once the formulary is set, the manufacturer can then increase the price and the agency would not be able to make a changes to its formulary in response to the increase. However, the change is not expected to result in a material financial impact to the agency.

The Public School Insurance Authority (NMPSIA) reports it has a contract with Saveon with an exclusive specialty arrangement implementing a program for members to receive financial copayment assistance offered by drug manufacturers associated with their drugs. NMPSIA aligns the copayments with the amount available under the drug manufacturer financial assistance copayment program and members pay no copayment for these drugs, while NMPSIA receives a cost savings for each drugs listed in the program. The drugs listed in the program change based on manufacturers' copayment availability. The first year of savings from the program totaled $2,279,597, but under the provisions of the bill, NMPSIA could not modify the drugs on the list and would forfeit these costs savings.

The Office of Superintendent of Insurance (OSI) indicates under the provisions of the bill, it would need to employ an individual with a pharmacy background to make monthly comparisons between insurance companies' drug formularies, conduct research on any identified changes, and take enforcement action where needed. Additionally, OSI received $140 thousand in federal funds to review for one year five drug formularies for compliance with the benchmark plan for ACA compliant essential health benefits standards. This work was similar to the enforcement work envisioned under SB112, and could cost OSI approximately $140 thousand in contract funds.

SIGNIFICANT ISSUES

The Retiree Health Care Authority notes the bill does not address instances where a drug is being abused and a prior authorization or other utilization management tool would be needed to respond, possibly resulting in harm to members. Also, the bill does not provide an exception for the addition of generic drugs to the formulary.

The Office of the Superintendent of Insurance reports SB112 would prohibit a carrier shifting a name-brand drug to a drug formulary tier drug when a generic version of the drug is introduced to the market. Limiting an insurance carrier's ability to control costs through changes to the drug formulary when a new generic drug comes onto the market could increase insurance premiums.

ADMINISTRATIVE IMPLICATIONS

The UNM Health Sciences Center indicates the requirement that provider contracts be executed by insurance companies 90 days prior to the start of the plan year and may not be rescinded or changed during the plan year would be a significant shift and have an effect on contract negotiations between providers and insurance companies.

TECHNICAL ISSUES

The Public School Insurance Authority indicates the bill does not appear to address a provider being removed from the network for loss of a license, arrest, or placing members in danger. Also, some providers move out of the network in cases where they have moved or retired during the plan year which could cause a mid-year termination.

OTHER SUBSTANTIVE ISSUES

The Public School Insurance Authority notes drug manufacturers often raise prescription drug prices and the agency relies on its pharmaceutical manager to adjust the formulary, with proper notice to members, to mitigate claims cost associated with these drug manufacturer increases. Some examples of high pricing increases are the EpiPen, insulin, and specialty drugs.

RAE/sb/al