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FISCAL IMPACT REPORT

SPONSOR	<u>Brandt</u>	LAST UPDATED	<u>01/27/2023</u>
		ORIGINAL DATE	<u>01/24/2023</u>
SHORT TITLE	<u>Organ Donation Discrimination</u>	BILL NUMBER	<u>Senate Bill 71/aSJC/ec</u>
		ANALYST	<u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			
Total						

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Office of the Superintendent of Insurance (OSI)

No Response Received

Department of Health (DOH)

University of New Mexico Health Sciences Center (UNM HSC)

SUMMARY

Synopsis of Senate Judiciary Committee Amendment

The Senate Judiciary Committee amendment removes all instances of the word “attending” to define physicians or other health care providers caring for a patient needing organ donation.

Synopsis of Senate Bill 71

Senate Bill 71 forbids discrimination against persons based on physical or mental disabilities in all aspects of the organ transplantation process.

Section 1 of the bill refers to changing the name of the entire Section 24-6B NMSA 1978 to the Jonathan Spradling Revised Uniform Anatomical Gift Act.

Section 2 of the bill adds to that act prohibition on insurers discriminating against a person with a

disability (defined comprehensively) in receipt of a transplantation or any associated services. Disabilities could be taken into account only when a physician determines the disability to be relevant to the transplant process and recovery. It allows a person aggrieved under the provisions of the act to pursue a civil action in district court.

The bill's sections 3 through 6, amend Health Insurance Law (Section 59A-22 NMSA 1978) to apply these anti-discriminatory regulations to each type of insurance, adding the provisions in each section that benefits to the patient and payments to the providers of the services cannot be reduced based on the disability.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 71.

According to OSI, "Since this legislation only applies to major medical, commercial health insurance that already voluntarily covers transplants and anatomy donations, it does not create a new mandate. The state will not have to defray the cost of this legislation.

SIGNIFICANT ISSUES

OSI states that its "main enforcement of this legislation will be through the agency's complaints process. OSI's main obligation for this legislation would be to ensure that these coverages are in insurance policies currently reviewed by OSI staff, which does not include policies issued to state employees pursuant to the Health Care Purchasing Act."

RELATIONSHIP

The provisions of this bill may augment the protections offered by Section 59A-23E-11 NMSA 1978, which states in its entirety:

A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not establish rules for eligibility or continued eligibility of any individual to enroll or continue to participate in a health plan, or eligibility or continued eligibility for benefits, based on any of the following factors in relation to the individual or a dependent of the individual:

- A. Health status;
- B. Medical condition, including both physical and mental illnesses;
- C. Claims experience;
- D. Receipt of health care;
- E. Medical history;
- F. Genetic information;
- G. Evidence of insurability, including conditions arising out of acts of domestic violence;
- H. Disability;
- I. Gender;
- J. National origin;
- K. Sexual orientation; or

L. Any other health status-related factor that the superintendent specifies in rules of the office of superintendent of insurance.

LAC/ne/rl