LFC Requester:	Lance Chilton

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION
{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original X **Amendment** ____
Correction ___ **Substitute** ____

Date 1/26/2024
Bill No: SB 135

Sponsor: Elizabeth "Liz" Stefanics, Craig W. Brandt, Siah Correa Hemphill, Antonio Maestas, Daniel A. Ivey-Soto
Short Title: STEP THERAPY GUIDELINES

Agency Name and Code Number: New Mexico Public Schools Insurance Authority 34200
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	**FY25**		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	**FY25**	**FY26**		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0	$1,400.0	$2,800.0	$4,200.0	Recurring	OSF/General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Relating to step therapy for prescription drug coverage and eliminating step therapy requirements for certain conditions. Group health coverage shall establish clinical review criteria for step therapy protocols. The clinical review criteria shall be based on clinical practice guidelines that: (1) recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol; (2) are developed and endorsed by an interdisciplinary panel of experts (3) are based on high-quality studies, research and medical practice; (4) are created pursuant to an explicit and transparent process. Peer-reviewed publications may be substituted for guidelines. An enrollee and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination and shall be made accessible on the health plan's website. A group health plan shall expeditiously grant an exception to the plan's step therapy protocol based on medical necessity and a clinically valid explanation from the patient's prescribing practitioner as to why a drug on the plan's formulary should not be substituted for the prescribed drug including: 1) the drug that is the subject of the exception request will likely cause an adverse reaction; 2) ineffective based on the known clinical characteristics of the patient; 3) the enrollee has tried the prescription drug that is the subject of the exception request or 4) protocol is not in the best interest of the patient, 5) based on clinical appropriateness, the prescription drug is expected to: (a) cause a significant barrier to the patient's adherence to (b) worsen a comorbid condition (c) decrease the patient's ability to perform daily activities. The group health plan administrator shall authorize continuing coverage for the life of the enrollee for the prescription drug that is the subject of the exception request. A group health plan shall respond with its decision on an enrollee's exception request within seventy-two hours of receipt and within twenty-four hours if exigent circumstances exist. In the event the group health plan does not respond to an exception request within the time frames required, the exception request shall be granted. A group health plan administrator's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act. A group health plan shall authorize continued coverage of a prescription drug that is the subject of the exception request pending the determination of the exception request. Section 59A-22B-8 NMSA 1978 is amended to prohibit a health insurer from imposing step therapy requirements before authorizing coverage for medication that is prescribed for the treatment of an autoimmune disorder, a behavioral health condition, cancer or a substance use disorder, pursuant to a health care provider's medical necessity determination, except in cases in which a generic version is available." Beginning in July 2026, and annually thereafter, the office of

superintendent of insurance shall perform an audit to ensure compliance with this act. This act applies to group health insurance policies, health care plans or certificates of health insurance, other than small group health plans, that are delivered, issued for delivery or renewed in this state on or after January 1, 2025.

FISCAL IMPLICATIONS

This impact analysis was generated by reviewing 2023 Prior Authorizations (PA) and Step therapy (ST) for the drug categories mentioned in the bill and calculating how much those PA/ST saved the plan in 2023. If this bill were enacted, it would allow providers to declare a drug medically necessary and essentially bypass that PA process, and could result in the entirety of those PA/ST savings being removed. Removing those savings would result in an estimated $2.8M impact, annually.

The estimated financial impact to NMPSIA is predominantly attributable to the bill's prohibition of prior authorization and step therapy requirements for medication prescribed for treatment of an autoimmune disorder, a behavioral health condition, or cancer. During FY23, NMPSIA's second highest therapeutic class was Analgesics – Anti-Inflammatory, representing more than 15% of the total amount paid by NMPSIA. During the same time period, Oncology ranked number two among NMPSIA's top specialty classes, with almost 18% of the amount paid by NMPSIA for specialty medications. Given this utilization across NMPSIA membership, the elimination of prior authorizations and step therapy protocols associated with medications for these condition categories is expected to result in an increase of approximately $2.8 million to NMPSIA's costs annually.

This estimate does not include any potential rebate impact. Elimination of a step therapy protocol has the potential to impact rebates if rebates associated with the medication originally prescribed differ from any rebates associated with the alternative medication required by the step therapy. It is unknown at this time whether any rebate impact would increase or decrease the fiscal impact described above, however in general this would be expected to have an offsetting effect.

NMPSIA revenues are derived from the collection of member premiums through other state funds; however, premium revenues to schools are funded through the State Equalization Guarantee (SEG) which comes from the general fund.

*The information presented is based on patients using the step therapy drugs in 2023 and the amounts could vary each fiscal year due to any increases or decreases in the number of patients on step therapy.

SIGNIFICANT ISSUES

Prior Authorizations, in addition to being a cost saving measure, are a means to maintain positive communication between providers and patients. It prompts conversations regarding a physician's treatment plan and promotes re-evaluation of that plan for the patient's benefit. This protocol also enacts a checks and balances of sorts for pharmaceutical companies who incentivize the prescription of certain brand name medications. Without proper a PA protocol providers are not held accountable for prescribing brand name medications when there are more cost-effective option available.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates HB 185 Step Therapy Guidelines.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

The bill does not appear to distinguish between existing utilizers and new utilizers. If a member is currently using an intermediary product (i.e., alternative medication that they are required to take under the step therapy protocol before they can access the medication prescribed by their provider) for treatment of one of the three specified condition categories, it is unclear whether they would be required to switch to the higher-cost product that was originally prescribed.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS