

LFC Requester:

Julissa Rodriguez

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}***Date Prepared:** 01-15-2026*Check all that apply:***Bill Number:** HB 38Original ☒ Correction ☐Amendment ☐ Substitute ☐**Agency Name and** Office of Superintendent of Insurance-**Code Number:** 440**Sponsor:** Representative Kathleen Cates**Person Writing****Analysis:**Viara Ianakieva**Short Title:** WHEELCHAIR INSURANCE  
COVERAGEViara.Ianakieva@osi.nm.**Phone:** 505-508-9073 **Email:** gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|------|------------------------------|------------------|
| FY26          | FY27 |                              |                  |
| N/A           | N/A  | N/A                          | N/A              |
|               |      |                              |                  |

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring<br>or<br>Nonrecurring | Fund<br>Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY26              | FY27 | FY28 |                                 |                  |
| N/A               | N/A  | N/A  | N/A                             | N/A              |
|                   |      |      |                                 |                  |

(Parenthesis ( ) indicate revenue decreases)

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

|  | FY26 | FY27 | FY28 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--|------|------|------|----------------------|------------------------------|------------------|
|  |      |      |      |                      |                              |                  |

|              |  |  |  |  |  |  |
|--------------|--|--|--|--|--|--|
| <b>Total</b> |  |  |  |  |  |  |
|--------------|--|--|--|--|--|--|

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.  
 Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

House Bill 38 (HB38) amends the Health Care Purchasing Act and Sections 59A-22-62, 59A-23-32, 59A-46-72, and 59A-47-66 NMSA 1978 of the Insurance Code to require health insurance issuers to cover wheel chairs and activity chairs if the item is for a permanent physical condition including limb loss, absence, or difference, paralysis, or conditions that significantly limit a person's ability to independently and safely engage in necessary physical activity.

“Activity chair” is defined as a device designed specifically to enable a person with mobility impairment to participate in physical activities by providing better speed, safety, stability, maneuverability, and balance than a standard wheelchair designed for activities of daily living.

HB38 also amends Section 59A-16-21.4 of the Insurance Code to prohibit as an unfair and deceptive trade practice: (1) denial of a prosthetic device, custom orthotic device, a wheelchair or an activity chair; (2) that would otherwise be covered for a non-disabled person seeking medical or surgical intervention; (3) to restore or maintain the ability to perform the same activity; (4) if the item is for a person with documented permanent physical conditions, including limb loss, limb absence, limb difference, paralysis or neuromuscular or musculoskeletal conditions; (5) that significantly limit the person's ability to independently and safely ambulate, stand, perform functional mobility or engage in physical activity necessary for whole-body health.

The requirements of HB38 apply to policies, plans, contracts and certificates delivered or issued for delivery or renewed, extended or amended in this state on or after January 1, 2027.

#### **FISCAL IMPLICATIONS**

#### **SIGNIFICANT ISSUES**

**None.**

#### **PERFORMANCE IMPLICATIONS**

**None.**

#### **ADMINISTRATIVE IMPLICATIONS**

OSI will ensure compliance during forms review, examinations and any grievances received.

Carriers may need to expand contracts with DME suppliers and specialty providers.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**None.**

#### **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

Insert a comma, after wheelchair or change language to read “a wheelchair and activity chair” to clarify that members are subject to more than one device.

“...orthotic devices, wheelchairs or activity chairs is provided, payment shall be made for the replacement of a prosthetic [or] device, a custom orthotic device, a wheelchair or an activity chair or for the replacement of any part of such [devices] items, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement [device] item, or a replacement part of such [a device] an item, is necessary because of any of the following...”

**Update the definition of "activity chair"** to “means a device that is used to support physical activity to maintaining or improving whole body health and designed specifically to enable a person with mobility impairment **to participate in physical activities** by providing better speed, safety, stability, maneuverability and balance than a standard wheelchair that is designed for activities of daily living.”

Specify a dollar amount for cost containment and operational purposes and to allow individuals to “for the full cost of one activity chair per member up to five thousand dollars (\$5,000) no more than frequently than every thirty-six months.”

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**