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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/10

SPONSOR Rodriguez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE No Use of Gender For Health Insurance Rating SB 148

ANALYST Lucero

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)  
 Public School Insurance Authority (PSIA)  
 Health Policy commission (HPC)  
 Retiree Health Care Authority

### SUMMARY

#### Synopsis of Bill

Senate Bill 148 proposes to amend the New Mexico Insurance Code, Minimum Healthcare Protection Act, Small Group Rate and Renewability Act, and the Health Insurance Alliance Act to prohibit the use of gender as a health insurance rating factor. Currently, insurers can charge up to 20 percent more on the basis of gender for persons in the same age group, all other rating factors being the same (health status, industry, geography).

The bill would apply to policies of coverage in the individual coverage, including coverage purchased pursuant to the Minimum Healthcare Protection Act, and for determining the rates for group coverage under the Small Group Rate and Renewability Act, and for policies approved by the board of the New Mexico Health Insurance Alliance.

The bill provides that gender shall not be used as a rating factor for policies issued or delivered on or after January 1, 2014. Prior to that time, the bill provides for a phase-in of this requirement, so that rates charged on the basis of gender cannot exceed rates for other similarly situated persons in the age group by more than fifteen (15) percent in calendar year 2011, ten (10) percent in 2012, and five (5) percent in 2013.

## FISCAL IMPLICATIONS

The Risk Management Division of the General Services Department, the Retiree Health Care Authority, and the Public School Insurance Authority (PSIA) report there would be no impact to their group health plans.

## SIGNIFICANT ISSUES

The Insurance Superintendent of the Public Regulation Commission (PRC) notes that:

While some insurers have gone to what is called a blended gender rating system, there is no law in New Mexico that requires insurers to do so. A 2008 survey of states, published in the National Women's Law Center report titled "Nowhere To Turn: How the Individual Health Insurance Market Fails Women," indicates that twelve states either have an outright ban on gender rating or have community rating, so the issue of gender bias in rating of premiums is not applicable. Two states, New Mexico and Vermont, have a rate band, which limits insurers' ability to base premiums on gender.

Allowing health plans to use rating factors, like gender, ensures that individuals pay the appropriate amount for their expected use of health care services and helps keep coverage as affordable as possible for all policyholders. Eliminating or limiting health plans' ability to use individual rating factors would result in lower-use (and therefore lower-cost) individuals paying more than they otherwise would – these individuals would, in essence, be subsidizing the costs associated with higher-use (and higher-cost) individuals. For example, eliminating gender as a rating factor would mean that for younger individuals, men would subsidize women, and for older individuals, women would subsidize men. Importantly, this type of cross subsidization has been shown to lead to lower-use individuals to opt out of coverage and to increase average rates for all covered individuals.

According to the National Women's Law Center report, insurers say they have a sound reason for charging different premiums: Women ages 19 to 55 tend to cost more than men because they typically use more health care, especially in the childbearing years. The counter-argument is that women use more preventive care, which is a good thing. But women still pay more than men for insurance that does not cover maternity care. In the individual market in New Mexico, maternity coverage may be offered as an optional benefit, or rider, but generally only for an additional premium.

The Health Policy Commission (HPC) reports that community rating regulations attempt to increase access to health insurance by ensuring that high-risk individuals are not denied coverage or charged premiums higher than they can afford. Community rating requires everyone in the same "community" to be charged the same rate for health insurance and requires health insurers to ignore such cost factors as:

- Geography - Doctors and hospitals in different cities may charge different rates for the same services;
- Age - As their health needs increase with age, older people tend to be more expensive to insure;
- Gender - Women and men have different costs, depending on their age; and
- Health status - Those with health conditions cost more to insure.

There may also be other factors that are disallowed for consideration. The result is a single rate for all applicants.

Like community rating, adjusted community rating prohibits insurers from varying premiums in a community based on health status or claims history, but it does allow insurers to vary rates (within limits) based on more factors than geography and family composition.

New Mexico's current adjusted community rating regulation allows insurers to use the rating factors of age, gender, geographic area of the place of employment and smoking practices, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment.

## **OTHER SUBSTANTIVE ISSUES**

According to the Public School Insurance Authority, if a federal health reform bill is signed into law, it is possible that it will carry a mandate requiring all U.S. residents to purchase health insurance, something that the insurance industry supports, Kaiser Health News reports. Some insurance industry trade groups have said they would agree to end gender rating practices when they sell insurance policies to individuals and small groups. However, the leading trade group -- America's Health Insurance Plans -- has stopped short of agreeing to end rating practices in the group market where large employers purchase coverage. AHIP says it is concerned that businesses that currently benefit from discounted insurance rates will see a rise in premiums if gender rating is not allowed, which it claims will force them to pull out of the group market and provide their own insurance.

HPC notes that research indicates women generally pay more for health insurance than do men. According to the Henry J. Kaiser Family Foundation, in 2008, one in seven privately insured women reported that she postponed or went without needed care because she couldn't afford it. Policymakers are attempting to enact cost control policies in concert with coverage expansions in health reform legislation, but this has been difficult given the scope and complexity of the health care system. While coverage is a critical element for women's access to care, ensuring that women's out-of-pocket expenses are affordable and that the growth in system-wide costs is controlled are also central to the debate.

(Source: <http://www.kff.org/womenshealth/upload/6000-08.pdf>)

### New Mexico's Uninsured

The U.S. Census Bureau reports that in 2008, 23.7% of New Mexican's were uninsured. The State's uninsured rate was above the national rate of 15.4%. New Mexico had the second highest uninsured rate in the nation preceded only by Texas at 24.4% using a three-year average from 2006 to 2008.

(Source: <http://www.census.gov/hhes/www/hlthins/hlthin08/statecomp08.xls>)

In 2008, New Mexico's insured population was insured under the following types of coverage:

- Private Health Insurance
  - Employment Based - 46.6%
  - Direct Purchase - 7.5%
- Government Health Insurance
  - Medicaid - 16.4%
  - Medicare - 14.3%
- Military Health Care - 6.3%

(Source: <http://www.census.gov/hhes/www/hlthins/historic/hihist4.xls>)

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

Health insurers in New Mexico will continue to have the ability to charge 20 percent higher rates to women than to men for otherwise identical policies of individual coverage, assuming that their age, health status and other rating factors were the same.

DL/svb