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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/11

SPONSOR Jennings LAST UPDATED _____ HB _____

SHORT TITLE Reconstructive Surgery Option Notification SB 283

ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Human Services Department (HSD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 283 would require health care providers to inform persons undergoing mastectomy, lumpectomy or lymph node dissection surgery of the breast about the option of reconstructive surgery.

The information would be provided to the patient in advance of obtaining consent for the surgery and would include descriptions of the advantages and disadvantages of each surgery option, the availability of health insurance or coverage for costs related to the surgery pursuant to the NM Insurance Code and the federal Women’s Health and Cancer Rights Act of 1998, and patient access to the reconstructive surgery services. The Department of Health would notify health care providers of the provisions of this bill.

FISCAL IMPLICATIONS

SB283 would result in a cost to DOH by requiring the agency to notify health care providers of the provisions of Section 1 Subsection A, which would require the development and ongoing distribution of educational materials to existing and new health care providers. If enacted, any cost would have to be covered by the existing DOH budget.

The Human Services Department indicates the Medicaid program does cover reconstructive surgery.

SIGNIFICANT ISSUES

The Department of Health indicates SB283 appears to be modeled on legislation passed in the state of New York in August 2010 (New York law A10094B/S6993-B; information accessed at <http://www.dotmed.com/news/story/13858/>). A difference between the New York legislation and SB283 is that the New York legislation requires general hospitals, rather than individual health care providers, to provide information to patients concerning the option of reconstructive surgery. Perhaps SB283 could require notification by general hospitals rather than individual health care providers in similar fashion to the New York legislation.

The responsibility for notification of health care providers or general hospitals of the new requirements provides for in SB38 could instead reside with such bodies as the New Mexico Medical Board, the New Mexico Medical Society, the New Mexico Hospital Association, or the New Mexico Department of Insurance.

ADMINISTRATIVE IMPLICATIONS

SB283 would require ongoing DOH staff to develop and distribute educational materials to existing and new health care providers. It is not clear that such activities could be supported by current staffing levels.

The Public Regulation Commission indicates under Section A(2) of Senate Bill 283, the duties of the Insurance Division are ambiguous.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Public Regulation Commission indicates Senate Bill 283 Section A(2) duplicates the existing requirement of disclosure required in Insurance Division Bulletin No. 1999-07.

Insurance Division Bulletin No. 1999-007 issued on December 13, 1999 expands 13.10.13.9.7.2. NMAC and incorporate some provisions of the federal Women's Health and Cancer Rights Act of 1998 by notifying all managed health care plans and health insurers that provide medical and surgical benefits for mastectomies, shall also provide coverage, based on a determination of the attending physician and patient for the reconstruction of the breast on which the mastectomy has been performed, the surgery and reconstruction of the other breast to produce a symmetrical appearance; and the prosthesis and physical complications for all states of mastectomy, including lymphedemas.

The bulletin further requires managed health care plans and health insurers to provide written notice of the availability of this coverage upon enrollment and annually thereafter to enrollees and all participants.

Senate Bill 283 elaborates on the requirements of Insurance Division Bulletin No. 1999-007.

Insurance Division bulletins can be found at <http://www.nmprc.state.nm.us/ib.htm>.

TECHNICAL ISSUES

DOH suggests requiring notification by general hospitals rather than individual health care providers in similar fashion to the New York legislation.

The bill could be amended to place the responsibility for notification of health care providers or general hospitals of the new requirements with such bodies as the New Mexico Medical Board, the New Mexico Medical Society, the New Mexico Hospital Association, or the New Mexico Department of Insurance.

OTHER SUBSTANTIVE ISSUES

DISPARITIES ISSUES

DOH indicates in a study examining disparities in post-mastectomy breast reconstruction, researchers at Brigham and Women's Hospital and Dana-Farber Cancer Institute in Boston, Mass., concluded that lack of patient-provider discussion may contribute to socioeconomic, age and race-related inconsistencies in the use of breast reconstruction after mastectomy. The study also found that reconstruction was more likely to occur after the surgeon discussed options with the patient, suggesting that efforts are required to increase and improve these conversations. (Greenberg C, [J Am Coll Surg](#). 2008 Apr;206(4):605-15.)

RAE/svb:bym