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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/21
LAST UPDATED 02/17/21 **HB** 107/aHJC
SPONSOR Thomson
SHORT TITLE Mail-Order Pharmacy Insurance Parity **SB** _____
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$2,585.0- \$7,327.0	\$2,585.0- \$7,327.0	\$5,170.0- \$14,654	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases) See fiscal note.

Relates to HB 154

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
 Retiree Health Care Authority (RHCA)
 General Services Department (GSD)
 Public Schools Insurance Authority (NMPSIA)
 Office of the Superintendent of Insurance (OSI)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 107 makes two changes in each of the bill's sections, as follows:

- The term “comparable” in price comparisons between community and mail-order pharmacies was not defined in the original bill and has been replaced by the word “equal,” making its meaning clear.
- Insured patients would have the option to fill their prescriptions at any participating community pharmacy, but the option to fill them at a “participating mail-order pharmacy” has been removed.

Synopsis of Original Bill

House Bill 107 applies to each of the types of health insurance offered in New Mexico the same new requirement, repeated in each of the five sections of the bill, with the aim to increase parity among local pharmacies and mail-order pharmacies on price to consumers. Provisions of the common language of the five sections include

- 1) Any community pharmacy may participate in a plan if it meets the terms and conditions of that plan.
- 2) Enrollees must be permitted to choose between a community pharmacy and a mail-order pharmacy, at their option, if the community pharmacy accepts payment at a rate comparable to that of a mail-order pharmacy. This requirement of parity would not be operative if the community pharmacy or mail-order pharmacy has been convicted of waste, fraud, or abuse in the previous two years.
- 3) The definition of “participating mail-order pharmacy” indicates that pharmacy must be in New Mexico.

Section	Applies to	Section of NMSA 1978 modified
1	Group health coverage and self-insurance	Health Care Purchasing Act, Chapter 59A-22B
2	Individual or group health policy, health care plan, certificate of health insurance	Health Insurance Contracts, Chapter 59A-22
3	Group or individual health insurance policy, healthcare plan, certificate of health insurance	Group and Blanket Insurance Contracts, Chapter 59A-23
4	Individual or group health maintenance organization contract	Health Maintenance Organization Law, Chapter 59A-46
5	Nonprofit health care plans	Non-Profit Health Care Plan Law, Chapter 59A-47
6	Pharmacy benefit managers or intermediaries	Pharmacy Benefit Manager Regulation Act, Chapter 59A-61

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no appropriation in this bill.

RHCA comments on two possible scenarios that would resolve the HB107-induced need to equalize the copays on mail order (90-day) prescriptions and community pharmacy (30-day) prescriptions. The community pharmacy co-pay could be made one-third of the mail order pharmacy co-pay, which would reduce the cost to consumers but cost the RHCA an extra \$532 thousand per year. Alternatively, it could increase the copay for 90-day mail order pharmacy prescriptions to three times the 30-day prescription copay, which would bring in an extra \$545 thousand in revenue to the program but at the expense of its subscribers. Similarly, NMPSIA and GSD note the effect that equalizing the copays would have on their subscribers or on the

programs or both. All three purchasers under the Health Purchasing Act have submitted multiple scenarios estimating costs to those programs from not only equalizing copays but also abandoning incentives to use preferred mail order pharmacies, especially for high-cost specialty medications. Use of exclusive providers for these products brings other benefits and incentives. PSIA details some of these incentives and their cost-saving and other benefits:

Further, removing the exclusive specialty arrangement removes PSIA’s ability to continue offering several clinical programs through its Pharmacy Benefits Manager as well as the SaveOnSP program. The impacted clinical programs include the Hepatitis Cure Value, Cholesterol Care Value, Oncology Care Value, Inflammatory Conditions Care Value, and Multiple Sclerosis Care Value programs. These programs are intended to improve care and outcomes for members and some have associated financial savings through improved discounts that would be eliminated if this bill were enacted.

The table below gives each of these agencies’ best estimates of the lowest and highest fiscal impacts to their program. The figures do not include the difficult-to-compute value of the incentives mentioned above.

Program	Lowest Additional Cost Estimate	Highest Additional Cost Estimate
Public School Insurance Authority (PSIA)	\$2,053.0 thousand	\$5,133.0 thousand
Group Benefits Program (through GSD)	\$532 thousand	\$1,662 thousand
Retiree Health Care Authority (RHCA)	No additional cost	\$532 thousand
Total	\$2,585.0 thousand	\$7,327.0 thousand

The same conundrum would face each insurer offering health plans in New Mexico: increase premium costs or copays for their insureds? Those additional costs are not considered here. Also not considered here is a modest amount of increased tax revenue from increased business activity among local pharmacies.

SIGNIFICANT ISSUES

It appears as if the interests of community pharmacies, of consumers, and of the health plans – especially the state-funded programs – are in conflict over the issues addressed by this bill. If it is enacted, community pharmacies will benefit but consumers, health plans, or both will have higher outlays as a result. Agencies in state government providing healthcare and prescription coverage to their members are affected similarly by the provisions in HB107, as noted in the paragraphs below.

NMPSIA comments its policyholders benefit from considerably lower co-pays using the mail-in pharmacy. NMPSIA continues:

As currently written, the bill requires carriers to use any mail order pharmacy system that agrees to their terms and their reimbursement rates. Given the importance of bulk purchasing to create a downward leverage on pharmacy benefit costs, splitting this purchasing power among different mail order pharmacies may not be the most cost-

effective way of delivering this benefit... As a self-insured plan, PSIA has relied on the significant cost savings generated by the Saveon Program [its pharmacy benefit manager] to mitigate larger than usual premium increases for members and school districts/charter schools.

RHCA points to long-term financial stability issues facing its program and the need to save money for its program and its subscribers by taking advantage of less expensive drug procurement.

OSI indicates, “As currently written, the bill requires carriers to use any mail order pharmacy system that agrees to their terms and their reimbursement rates. Given the importance of bulk purchasing to create a downward leverage on pharmacy benefit costs, splitting this purchasing power among different mail order pharmacies may not be the most cost-effective way of delivering this benefit.”

HSD indicates its Medicaid programs already provide parity in use of mail-order and community pharmacies.

RELATIONSHIP with House Bill 154, which would establish a prescription drug price affordability board to slow the rise in drug prices.

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