

LFC Requester:

Rubyanne Esquibel

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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(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: 2/5/26 **Bill Number:** HB38 **Original** **Amendment** **Substitute** X
Short Title: INSURANCE COVERAGE FOR WHEELCHAIRS AND ACTIVITY CHAIRS
Sponsor: Rep. Cates
Name and Code Number: HCA 630
Person Writing: Kresta Opperman
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$0	\$0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$0	\$0	\$0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Medical Assistance Division (MAD) Program (Medicaid)		\$103.3 \$1,340.8	\$103.3 \$2,578.3	\$206.6 \$3,919.1	Recurring	Program General Fund
MAD Program		\$258.8 \$3,358.8	\$258.8 \$6,458.8	\$517.6 \$9,817.6	Recurring	Program Federal Fund
Total MAD Program	\$0	\$362.1 \$4,699.6	\$362.1 \$9,037.1	\$724.2 \$13,736.7	Recurring	Federal & General
MAD Admin		\$6.1	\$6.1	Recurring	Recurring	Admin General Fund
MAD Admin		\$6.1	\$6.1	Recurring	Recurring	Admin Federal Fund
Total MAD Admin	\$0	\$12.2	\$12.2	\$24.4	Recurring	Federal & General
Total MAD Program & Admin	\$0	\$374.3 \$4,711.8	\$374.3 \$9,049.3	\$748.6 \$13,761.1	Recurring	-
Total State Health Benefits (SHB) Fund Impact	\$0	\$29.6 \$562.4	\$64.4 \$1,223.6	\$93.6 \$1,786.0	Recurring	SHB Fund (OSF)
SHB Member Premiums	\$0	\$7.4 \$140.6	\$15.8 \$300.2	\$23.2 \$440.8	Recurring	Employee Premiums
SHB Member Cost Share	\$0	\$2.0 \$38.0	\$4.2 \$79.8	\$6.2 \$117.8	Recurring	Employee Cost Share
SHB Total Member Impact	\$0	\$9.4 \$178.6	\$20.0 \$380.0	\$29.4 \$558.6	Recurring	Employee Costs
Total SHB Impact (Member+State)	\$0	\$39.0 \$741.0	\$84.4 \$1,603.6	\$123.0 \$2,344.6	Recurring	Total SHB (Member + State)

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 38 expands current mandates related to coverage of prosthetic and custom orthotic devices to coverage for purposes of showering or bathing and defines complex rehabilitation technology devices wheelchairs and activity chairs. The bill defines the circumstances where the mandate applies, as well as defines activity chairs complex rehabilitation technology (CRT) devices as follows: "For the purposes of this section, "activity chair" means a device that is 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." SB 38 also describes conditions under which wheelchairs and activity chairs should be, in part or in whole, replaced "(an item that is) is a subset of durable medical equipment that consists of complex rehabilitation manual and power wheelchairs, options, and accessories; is designed, manufactured, configured, adjusted or modified for a specific person to meet that person's unique medical, physical, functional and environmental needs and capacities; is generally not useful to a person in the absence of disability, illness, injury, or other medical condition; and requires certain services to ensure appropriate use of the item, including one or more of the following: an evaluation of the features and functions necessary to assist the person who will use the device; configuring, fitting, programming, adjusting or adapting the particular device for use by a person..

HB38 also narrows insurers' mandated coverage for all these devices by limiting the prohibition or denials to "a person with documented permanent physical conditions" and then lists examples of conditions presumptively considered to qualify as permanent physical conditions.

HB 38 mandates allowances of more than one medically necessary prosthetic device, orthotic device or CRTs per affected limb per covered person during a 3-year period. Prosthetic device, orthotic device are limited to no more than three and CRTs are limited to no more than two per cover person during a three year period.

HB38 mandates expanded coverage of a prosthetic device, orthotic device or complex rehabilitation technology device(s) that meets the medical needs of the enrollee for purposes of showering or bathing.

Provisions of this act are to be implemented on or after January 1, 2027.

FISCAL IMPLICATIONS

State Health Benefits (SHB): Currently for the SHB medical plans, both the BCBSNM and PHP plans cover wheelchairs, but not activity chairs, under the durable medical equipment (DME) benefit. HCA estimates that a third of the 164 members using wheelchairs will benefit from having activity chairs, assisting 56 SHB members. The fiscal impact of adding activity chairs as a new benefit to SHB is estimated to be \$39.0 thousand in FY27 and \$84.4 thousand in FY28, with \$29.6 thousand being absorbed by the SHB Fund (OSF) in FY27 and \$64.4 thousand in FY28. If the cost and uptake for the additional benefits included in the Committee Substitute are proportionally similar to Medicaid projections, the cost impact on SHB is estimated to be \$741 thousand in FY27

and \$1,603.6 thousand in FY28. HCA assumes a medical trend of 8% year over year. The remainder of the cost will be borne by member premiums and cost sharing.

Medical Assistance Division (MAD) (Medicaid): The estimate assumes an average unit cost of \$1,650 per user, reflecting the average purchase price of lower cost units \$800.00 and higher cost units \$2,500. Therefore, the total capital cost is estimated to be \$1,097.3 thousand/year. To annualize the cost estimate, the analysis assumes a 3-year chair lifetime (equivalent to 33% capital depreciation), a 4% interest rate and a 4% inflation factor, resulting in an annualized cost of \$362.1 thousand/year to the Medicaid program, benefiting 665 Medicaid members.

Medicaid administrative costs are estimated to be \$12.2 thousand/year, bringing the total fiscal impact on the Medicaid operating budget to \$374.3 thousand/year.

Amended Bill Analysis: The amended analysis recognizes 458 additional Medicaid recipients would benefit by the amendments to the bill, given the broader definition of ‘complex rehab technology devices’, at an additional cost of \$13,012.5 thousand. The additional costs reflect orthotics devices \$6,807.9 thousand, prosthetic devices \$5,999.8 thousand, and complex rehabilitative technology devices \$204.8 thousand. The amended analysis continues to apply a 3-year replacement cycle for these devices, consistent with the original analysis.

This legislation amends Chapter 13 and multiple areas of Chapter 59 of New Mexico statute. It does not amend Chapter 27 which pertains to MAD services. It is unclear that this bill applies to MAD. If it does pertain to MAD, coverage of wheelchairs, seating systems, **positioning items**, prosthetic devices, and custom orthotics are part of an existing benefit described in [NMAC 8.324.5](#). Currently state NMAC allows for the coverage of one wheelchair every three years unless there is a change in medical necessity. Activity chairs would have a similar limitation. Adding coverage of activity chairs may result in a slight increased costs for prior authorizations reviews completed by third party assessor (TPA) and claims reimbursement of medically necessary activity chairs.

SIGNIFICANT ISSUES

SHB does not anticipate problems; implementation of the bill would be straightforward; however, the bill does not contain an appropriation to offset the costs.

This legislation amends Chapter 13 and multiple areas of Chapter 59A of New Mexico statutes. It does not amend Chapter 27 which pertains to MAD services. Therefore, this bill does not expressly mandate the **additional** coverage of activity chairs **outlined in HB38** under Medicaid. ~~To ensure that this coverage would extend to Medicaid the HCA may need to expressly recognize activity chairs as a category of equipment distinct from wheelchairs in NMAC 8.324.5.12 to clarify that reimbursement for both a wheelchair and an activity chair is not a duplication of service requirements. While activity chairs are arguably distinct from wheelchairs, the current regulatory language could be considered ambiguous and be vulnerable to misinterpretation. See [NMAC 8.324.5.12C](#) (“MAD does not cover duplicates of items, for example, a MAP eligible recipient is limited to one wheelchair, one hospital bed, one oxygen delivery system, or *one of any particular*~~

type of equipment.”)

SB38 mandates CRT device suppliers to employ at least one assistive technology professional with specific certifications and to make at least one qualified CRT device technician available in each service area. It is necessary to establish a clear method for identifying and verifying CRT device suppliers met the mandates outlined by HB38.

ITD may need to provide support if any of the changes necessitate programmatic work, but no impacts beyond that.

PERFORMANCE IMPLICATIONS

MAD: Coverage of wheelchairs, seating systems, prosthetic devices, and custom orthotics are expressly part of an existing benefit described in [NMAC 8.324.5](#). ~~Upon legislative and Centers for Medicare and Medicaid Services (CMS) approval, the Medical Assistance Division will begin the process to implement coverage of activity chairs.~~ Additional coverage of activity chairs outlined in HB38 may result in a slight increase in reviews for prior authorizations (completed by third party assessor, TPA), miscellaneous code reviews conducted by the DME program manager (FFS) and reimbursement of medically necessary activity chairs devices. HB38 aligns with HCA’s mission, goals and objectives.

ADMINISTRATIVE IMPLICATIONS

MAD: MAD does not anticipate the need to work with other agencies nor the Governor’s office. Implementation timeline would be approximately 12 months from legislative approval to capture necessary NMAC revisions, coding changes, process updates and training.

SHB: SHB does not anticipate any additional administrative implications.

No administrative implications for ITD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

House Health and Human Services Committee substitute for House Bill 38 233748.2 and 233748.4