F I S C A L   I M P A C T   R E P O R T

		LAST UPDATED	2/8/2023
SPONSOR	Hochman-Vigil	**ORIGINAL DATE**	1/21/2023
SHORT TITLE	Chiropractic Services Insurance Coverage	**BILL NUMBER**	House Bill 75/aHCPAC
		ANALYST	Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			
Total						

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From
Office of Superintendent of Insurance (OSI)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of HCPAC Amendment to House Bill 75

The House Consumer and Public Affairs Committee amendment to House Bill 75 excludes short-term travel, accident only, and limited disease policies. The amendment also makes the effective date of the bill January 1, 2024.

Synopsis of House Bill 75

House Bill 75 requires commercial health insurance plans that cover chiropractic services to institute cost-sharing restrictions no more restrictive than visits for primary care doctor visits. Cost sharing restrictions would apply to health insurance policies, health care plans, and certificates of health insurance and health maintenance organization contracts.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The federal Affordable Care Act (ACA) requires all major medical health commercial insurance marketed to individuals and small groups to cover a standard group of benefits. This standard group of benefits is called a “benchmark” plan. The actuarial value of a benchmark plan is used to calculate the premium tax credits consumers will receive from the federal government to help subsidize purchasing coverage through the health insurance marketplace. The federal government has an interest in preventing states from adding benefits to their benchmark plans as increased benefits would raise the cost of federal premium tax credits owed to state residents.

To limit this, ACA requires states to defray the costs of any newly mandated benefits. The Office of Superintendent of Insurance (OSI), citing the ACA note that the amount the state is required to defray for the cost for any newly mandated benefits is based on the actuarial value of the new benefit. Other states that have been required to defray the cost of newly mandated benefits include Utah and Massachusetts.

However, OSI notes that their current benchmark plan includes chiropractic care, and therefore would not require the state to defray the cost of the new benefit. OSI notes:

> In the preamble to its promulgation of rules on defrayal, the Centers for Medicare and Medicaid services states "In this proposed rule, we interpret state- required benefits to be specific to the care, treatment, and services that a state requires issuers to offer to its enrollees. Therefore, state rules related to provider types, cost-sharing, or reimbursement methods would not fall under our interpretation of state-required benefits. Even though plans must comply with those state requirements, there would be no federal obligation for states to defray the costs associated with those requirements." CMS has recently confirmed with OSI that changes to benefit cost-sharing do NOT require defrayal as long as the benefit isn't newly mandated.

Additionally, while the Superintendent of Insurance is charged with regulating commercial insurers, the bill does not create any additional oversight duties. In agency analysis, OSI notes that its primary monitoring tool would be through complaints, and the agency would not need any additional personnel to implement HB75.

SIGNIFICANT ISSUES

OSI noted concerns about the legislation's interaction with Health Savings Accounts:

> Federal law permits the offering of high deductible plans in conjunction with Health Savings Accounts (HSAs). IRS rules prohibit any benefits other than ACA mandated cost-sharing free preventive care benefits from being offered at the copay level before an insured has paid their deductible.
>
> The way this legislation has been drafted does not take into account High Deductible Health Plans with HSA eligibility (HDHP/HSA). Passage of this legislation without an exemption for HDHP/HSA plans would invalidate these plans' HSA eligibility per IRS rules. While OSI has addressed this issue via regulatory bulletin in the past, this is a fix that is without the force of legislation. OSI recommends that the bill be amended to exempt HDHP/HSA plans. Approximately 8,000 New Mexicans a year enroll in HDHP/HSA eligible plans.

ADP/ne/al/rl