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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Hernandez, J./Thomson/Chavez, E./Cates **ORIGINAL DATE** 2/13/2024

BILL

SHORT TITLE Diabetic Foot Ulcer Equipment Coverage **NUMBER** House Bill 233

ANALYST Hernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA MAD FTE	No fiscal impact	\$48.7	\$48.7	\$97.4	Recurring	General Fund
HCA MAD FTE	No fiscal impact	\$48.7	\$48.7	\$97.4	Recurring	Federal Funds
HCA MAD Program	No fiscal impact	\$3,525.5	\$3,525.5	\$7,051.0	Recurring	Federal Funds
HCA MAD Program	No fiscal impact	\$701.7	\$701.7	\$1,403.4	Recurring	General Fund
SHB	No fiscal impact	\$926.3	\$926.3	\$1,852.5	Recurring	General Fund
Total	No fiscal impact	\$5,250.9	\$5,250.9	\$10,501.8	Recurring	

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Office of the Superintendent of Insurance (OSI)

Health Care Authority (HCA)

Department of Health (DOH)

SUMMARY

Synopsis of House Bill 233

House Bill 233 (HB233) amends sections of the Insurance Code (NMAC 59A) to require coverage for durable medical equipment for the treatment of active diabetic foot ulcers, including topical oxygen therapy. Section 5 of HB233 applies the requirement to all four Interagency Benefits Advisory Committee (IBAC) categories in New Mexico. HB233 applies the provisions to policies created, modified, or renewed after January 1, 2026.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Medicaid

HCA states that for the Medicaid Assistance Division (MAD), “the total computable cost to the HCA/MAD program for covering durable medical equipment (DME) active diabetic foot ulcers is estimated to be \$4,227,216. This estimate is based [*sic*] on a diagnosed DME DFU population estimate of 2,576 and an inflation-adjusted annual cost of \$1,641 per individual. HB 233 would cost \$3,525,498 in federal funds and \$701,718 in state funds.”

State Health Benefits

When considering the State Health Benefits (SHB) program, HCA “estimates that the total annual cost impact of the bill is \$1,500,000. This includes \$926,250 incurred as increased state premium contributions, \$498,750 as employee premium contributions, and \$75,000 as member out-of-pocket costs when members use these services.”

SIGNIFICANT ISSUES

According to DOH, approximately 13.1 percent, or 217,400 adults in New Mexico are diagnosed with diabetes. Moreover, in New Mexico, the total direct medical expenses for diagnosed diabetes in New Mexico was \$1.49 billion. The total indirect costs from lost productivity due to diabetes was \$475 million. This amounts to a total estimated cost of \$1.9 billion in New Mexico.

DOH further states that:

Diabetic foot ulcers are a major source of preventable morbidity in adults with diabetes. Oxygen is a critical component of many biological processes and is essential for wound healing. Topical oxygen therapy is an advanced wound care technique which has been shown to improve the healing potential of diabetic foot ulcers. Consequences of foot ulcers include decline in functional status, infection, hospitalization, lower-extremity amputation, and death.”

ADMINISTRATIVE IMPLICATIONS

Medicaid

HCA raised concerns about the implementation of HB233, which “would require federal approval of the Medicaid State Plan to receive federal match, NMAC revisions, Managed Care Letter of Direction and/or changes to Managed Care contracts, moderate level of claims processing system edits, and development of ongoing monitoring/quality assurance procedures.”

Unlike DOH, HCA notes that “topical oxygen therapy is not a Medicare covered benefit as the evidence is insufficient in determining the effects of this technology on net health outcomes. Due to lack of Medicare coverage of topical oxygen therapy as a benchmark policy, Medicaid development of policy and reimbursement would require significant staff resources and time. Medicaid would need to obtain federal authority to draw down the federal match. If this authority is not received Medicaid would be required to pay 100 percent out of state general fund.”

Finally, the implementation of HB233 would require one full-time HCA/MAD employee and claims processing system edits.

State Health Benefits

HCA's State Health Benefits (SHB) Bureau "does not anticipate any major administrative issues resulting from HB233. The bill does not impose any new cost sharing requirements for the services, instead allowing members to pay out-of-pocket costs as structured in existing plan designs for diabetes-related care. SHB would direct its administrative services organizations to make the appropriate adjustments in member policy books, which is standard for any changes to benefits and will not impose any additional costs."

TECHNICAL ISSUES

OSI notes that Section 5 should be moved under the Health Care Purchasing Act (NMAC 13-7) and not the Insurance Code, as OSI has no jurisdiction or authority over the four IBAC entities. If HB233 applies to plans subject to the Health Care Purchasing Act, then it should be applied to the Act and not the Insurance Code.

The language in HB233 as drafted states that "durable medical equipment for the treatment of active diabetic foot ulcers, including topical oxygen therapy" leaves some questions about the applicability. OSI notes that if there is any new requirement or change that does not meet the Affordable Care Act scopes and benchmarks, then the state of New Mexico must defray the cost. As such, to avoid further additional operating budget impacts, OSI recommends changing the drafting statement to "medically necessary treatment of active diabetic foot ulcers, including topical oxygen therapy."

AEH/SR/rl