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## FISCAL IMPACT REPORT

**SPONSOR** Stefanics/Armstrong, D.      **ORIGINAL DATE** 2/20/17  
**LAST UPDATED** \_\_\_\_\_      **HB** \_\_\_\_\_

**SHORT TITLE** Health Coverage Contract Change Limits      **SB** 291

**ANALYST** Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See fiscal impact				

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 112

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Medical Board (NMMB)

NM Board of Nursing (NMBN)

Office of the Superintendent of Insurance (OSI), responding to duplicate HB 112

Department of Health (DOH), responding to duplicate HB 112

### SUMMARY

#### Synopsis of Bill

Senate Bill 291 (SB 291) amends the Health Care Purchasing Act, New Mexico Insurance Code, Health Maintenance Organization Law and the Nonprofit Health Care Plan Law to limit changes to coverage and cost-sharing for prescription drugs less than 90 days prior to the beginning date of the plan year in which changes are to take effect, or at any time during the current plan year.

SB291 also requires that contracts with providers be executed no sooner than 90 days from the beginning date of the plan year, and shall not be modified or rescinded during the plan year. However, allows for new providers within the year, to contract for the remainder of the year.

### FISCAL IMPLICATIONS

Group health insurers would not be able to make certain changes to coverage in the middle of a plan year. So at no time during the current plan year can a prescription drug be removed, have the co-pay changed, etc. Insurers use cost-sharing to respond to the rising costs of healthcare.

In its analysis of duplicate House Bill 112, the NMDOH reported that the American Society of Internal Medicine recommends that health insurers provide notification of drug formulary changes not less than 90 days before implementation, during the current plan year.

OSI reports that the proposed legislation would create a significant change in the way health plan formularies currently function. Additionally, it would create a change in the way provider contracts are written. In order for OSI to take consumer complaints on formulary violations, investigate claims and take corrective enforcement action, plus enforce the provider contract regulation, OSI would need one FTE at a cost of \$75 thousand to cover salary and benefits.

### **SIGNIFICANT ISSUES**

OSI cautions we may soon have new federal statutes regarding health insurance, and it is hard to say what the consequences of enacting or not enacting this bill will be in any changed regulatory environment. Currently, health insurers are able to change their formularies in the middle of the plan year. They are also able to drop providers in the middle of the plan year; however, regulations are in place to ensure health insurers meet network provider adequacy requirements.

### **PERFORMANCE IMPLICATIONS**

According to DOH, there are four states with legislation or regulations that limit when health plan insurers may change their prescription drug formularies. Louisiana and Nevada do so through regulations while New Mexico and Connecticut restrictions are contained in statute.

### **TECHNICAL ISSUES**

OSI also notes the bill refers to “the administrator for group health coverage”. Typically, an “administrator” is a business with a third-party administrator license from OSI, who handles the customer service and claims administration of a self-insured health plan. These administrators are considered contractors of the self-insured plan and fall under the U.S. Department of Labor (not OSI) enforcement of the self-insured health plan. OSI recommends language specifically identifying administrators as those in the employment of companies who provide fully-insured insurance. OSI suggests amending all references to “group health plan administrator” to “group health plan administrator of a fully-insured plan” and adding a definition for “fully-insured”.

### **OTHER SUBSTANTIVE ISSUES**

Well run formularies can offer the safest, most effective and least costly prescription drugs.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If HB112 is not enacted, the Health Care Purchasing Act, The New Mexico Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law will not be amended to change drug coverage and formulary timelines, or provider contract requirements.