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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Thomson/Stefanics</u>	<b>LAST UPDATED</b> <u>2/15/23</u>	<b>ORIGINAL DATE</b> <u>02/2/2023</u>
<b>SHORT TITLE</b> <u>Mail-Order and Community Pharmacy Access</u>	<b>BILL NUMBER</b> <u>House Bill 132</u>	<b>ANALYST</b> <u>Chilton/Toal</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>RHCA</b>		\$1,600.0	\$3,200.0	\$4,800.0	Recurring	Health Benefits Administration
<b>NMPSIA</b>		Indeterminate but substantial	Indeterminate but substantial	Indeterminate but substantial	Recurring	Health Benefits Administration
<b>GSD</b>		\$2,872.0	\$2,872.0	\$5,744.0	Recurring	Health Benefits Administration
<b>Albuquerque Public Schools</b>		Indeterminate but substantial	Indeterminate but substantial	Indeterminate but substantial	Recurring	General Fund
<b>Total</b>		Greater than \$4,472.0	Greater than \$6,072.0	Greater than \$10,544.0	Recurring	Health Benefits Administration and General Fund

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

Related to House Bill 51.

### Sources of Information

LFC Files

#### Responses Received From

Human Services Department (HSD)  
 Department of Health (DOH)  
 Retiree Health Care Authority (RHCA)  
 Public Schools Insurance Authority (PSIA)  
 General Services Department (GSD)

#### No Response Received

Office of the Superintendent of Insurance (OSI)  
 Albuquerque Public Schools (APS)

## SUMMARY

### Synopsis of House Bill 132

House Bill 132 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

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

Fiscal implications to Health Care Purchasing Act agencies (GSD, PSIA, RHCA, and APS) stem from projected decreases in incentives offered to those agencies for purchasing in quantity from a single provider. PSIA bases its estimate of costs to that agency as follows: “Part of the fiscal impact would be the change for matching mail order copays to retail [which] would result in an annual cost of \$603,881 based on 2022 data. In addition to rearranging the cost sharing agreements illustrated above, the bill would also eliminate NMRHCA’s participation in the SaveOn program which provided an estimated savings of nearly \$2.6 million in calendar year 2022, as specialty medications run exclusively through Express Scripts’ specialty pharmacy – Accredo.”

GSD estimates its additional costs as follows: “GSD/RMD is under contract with CVS Caremark as the prescription benefits manager (PBM). The current plan design includes copayments, coinsurance, and mail-order. CVS analysis indicates that the bill would result in an increased cost to the Plan of \$950 thousand due to shifts in mail volume to the retail pharmacy. Currently, members are able to get a 90-day script at mail for the same price as a 30-day script at retail. Mail offers a greater discount to both the plan and the members and CVS would expect to see this discount eroded as members shift from mail to retail. Further, CVS projects a loss of

approximately \$1.922 million in reduced rebates, as the rebate guarantees offered between mail and retail have a different rate.”

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. RHCA indicates an annual (12-month) cost to that agency of \$3.2 million. PSIA did not make an estimate with regard to this year’s bill, though estimates regarding identical 2021 House Bill 107 ranged from \$2.05 million to \$5.13 million for that agency alone. An estimate for APS is not available.

It is likely that a large portion of the costs are incurred due to specialty drugs, high cost drugs, often injectable, that are used to treat rare and chronic conditions.

## **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 subject to the Health Care Purchasing Act and providing healthcare and prescription coverage to their members are affected similarly by the provisions in House Bill 132.

On the one hand, the availability and survival of community pharmacies is of high importance, especially in New Mexico, and would be furthered by enactment of this bill. On the other hand, costs to providers of medication insurance would likely see lower discounts related to decreased consolidation of drug purchases, and these costs would be likely passed on to consumers through their premiums.

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

Under this bill, PSIA would be required to either reduce retail pharmacy copays to one-third of mail copays or increase mail copays to 3 times the retail amount. Increasing the mail copays would shift costs to members, so it is anticipated that PSIA would avoid increasing the burden for members and instead reduce the retail copays. We are awaiting additional information from CVS regarding this impact.

Additional fiscal impact would be associated with specialty medications. If this bill were enacted as written, PSIA would have to remove the existing exclusive specialty arrangement and open the specialty network to other pharmacies. This would impact the pricing PSIA is able to obtain for specialty medications, and potentially also impact the rebate guarantees and other financial terms of PSIA’s contract with its Pharmacy Benefits Manager (currently CVS). The fiscal impact would vary based on how many pharmacies would be willing to offer the exclusive specialty rates.

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 PrudentRx program. The PrudentRx program helps maximize savings and reduce plan and member costs. The legislation appears to be aimed at requiring that manufacturer copay coupon cost sharing assistance be counted towards the member’s

deductible, out-of-pocket) maximum, etc. This requirement undermines the savings that PrudentRx provides to help lower the overall net cost of the drug to the plan while eliminating the member's copayment or coinsurance obligation. We are awaiting additional information from CVS regarding the impact of discontinuing the PrudentRx program.

A self-insured plan, PSIA has relied on the significant cost savings generated by the PrudentRx Program (and the predecessor program, SaveOnSP, under its prior PBM, Express Scripts) to mitigate larger than usual premium increases for members and school districts/charter schools.

## **RELATIONSHIP**

Related to House Bill 51, which would establish a prescription drug affordability board.

## **POSSIBLE AMENDMENT**

An amendment to exempt specialty drugs from the provisions of this bill would obviate most of the costs associated with its adoption.

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