

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Schmedes **ORIGINAL DATE** 02/23/2023

BILL

SHORT TITLE Limit Health Reimbursement Retro Denial **NUMBER** Senate Bill 488

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate, but minimal	Indeterminate, but minimal	Indeterminate, but minimal	Recurrent	General Fund

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

Sources of Information

LFC Files

Responses Received From

Public School Insurance Authority (PSIA)
 Retiree Health Care Authority (RHCA)
 General Services Department (GSD)
 Office of the Superintendent of Insurance (OSI)
 Human Services Department (HSD)

No Response Received

University of New Mexico (UNM)

SUMMARY

Synopsis of Senate Bill 488

Senate Bill 488 would prohibit retroactive denials of medical provider claims in the following cases:

- More than six months have passed since the provider was paid, or
- Eighteen months have passed since payment in the case where coordinating benefits with another payer was required.

Exceptions to these deadlines would exist in cases where

- The original claim was fraudulent,
- The claim was coded incorrectly, or
- The claim was submitted to the payer incorrectly.

Section of SB 488	Section of Law Affected	Type of Insurance Affected
1	§59A-22	Group health insurance policy, health care plan or certificate of health insurance
2	§59A-23	Group or blanket health insurance policy, health care plan or certificate of health insurance
3	§59A-46	Individual or group health maintenance contract
4	§59A-47	Non-profit health plans

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

There is no appropriation in Senate Bill 488.

HSD states, regarding Medicaid, “SB488 would impact Medicaid programs to the extent that the bill reduces the number of denied Medicaid claims. The exact percentage of denied claims that claims would be affected by the bill is uncertain.”

GSD, RHCA and PSIA all state that there would be little or no fiscal consequence to this act.

PERFORMANCE IMPLICATIONS

According to OSI, “There is no language in this legislation outlining regulatory compliance or enforcement expectations for Office of the Superintendent of Insurance, such as audits of insurance claims or internal policy reviews. As a result, OSI is assuming its main enforcement will be through complaints. An additional staffing appropriation would be required if there was an expectation of active enforcement of this law.”

CONFLICT

According to OSI, “New Mexico has current law that requires payment of clean claims within 45 days of submission. See NMSA 1978 § 59A-16-21.1. This legislation permits an insurer to retroactively deny a clean claim previously reimbursed under this statute.”

OTHER SUBSTANTIVE ISSUES

HSD raises concerns regarding possible conflicts between federal Medicaid policy and the provisions of this bill: “There are time limits in federal regulation that states must meet for all Medicaid claims in order to receive federal matching funds. Current timelines that are set forth in regulation and contracts with the health plans are in place to ensure that the Human Services Department (HSD) can receive federal Medicaid funds on services provided to Medicaid-covered patients. Extending these timelines could jeopardize HSD’s ability to receive federal match.”

“Additionally, Section 1902(a)(42)(B)(i) of the Social Security Act requires States and territories to establish Medicaid Recovery Audit Contractor (RAC) programs. These programs require review and evaluation of claims paid to assess compliance with Medicaid requirements and can

result in provider recoupments. HB488, if passed, may require the agency to pay back any required recoveries from state funds, reducing Medicaid cost savings and resulting in actual loss of state revenue if auditors/CMS require the recovery.”

LC/al/ne