

<b>LFC Requester:</b>	<b>Eric Chenier</b>
-----------------------	---------------------

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/15/25 *Check all that apply:*  
**Bill Number:** HB53 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Pamela Herndon **Agency Name and Code:** HCA 630  
**Short Title:** Health Care Authority Reimbursements **Number:** \_\_\_\_\_  
**Person Writing:** Kresta Opperman  
**Phone:** 505-231-8752 **Email:** Kresta.opperman@hca

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$370.0	Recurring	General Fund
\$0	\$951.4	Recurring	Federal Funds
\$0	\$1,321.4	Recurring	Total

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	Recurring	Federal Funds

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>	\$0.0	\$0.0	\$0.0		Nonrecurring	NA
--------------	-------	-------	-------	--	--------------	----

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None  
 Duplicates/Relates to Appropriation in the General Appropriation Act: None

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 53 makes appropriations in the amount of \$370,000 from general funds to the Health Care Authority for expenditures during the fiscal year 2026 to ensure the providers are fully reimbursed for vagus nerve stimulation (VNS). Any unexpended or unencumbered balance shall revert back to the general funds.

**FISCAL IMPLICATIONS**

This appropriation would be eligible for federal fund matching with an estimated Federal Medical Assistance Percentage of 0.72. This would be estimated at \$951,429.00 additional funds for a total estimated budget of \$1,321,429.00 budget expenditures.

VNS is primarily used to treat medically refractory partial-onset seizures in patients for whom surgery is not recommended or has failed. It is also covered by Medicare for treatment-resistant depression (TRD) under certain conditions, such as being part of a CMS-approved study

Reference: [NCD - Vagus Nerve Stimulation \(VNS\) \(160.18\)](#)

- **Coverage for Epilepsy:** VNS is considered reasonable and necessary for patients with medically refractory partial onset seizures for whom surgery is not recommended or has failed. This has been covered since July 1, 1999.
- **Coverage for Treatment-Resistant Depression (TRD):** Since February 15, 2019, CMS covers FDA-approved VNS devices for TRD through Coverage with Evidence Development (CED). This requires participation in a CMS-approved, double-blind, randomized, placebo-controlled trial with a follow-up duration of at least one year.
- **Medical Necessity and Documentation:** VNS is considered reasonable and necessary for TRD only when provided within a CMS-approved CED study. Medical documentation must be reviewed to determine if the VNS meets Medicare coverage criteria.

Key billing codes related to VNS

- 69930: Implantation of vagus nerve stimulation neurostimulator pulse generator.
- 69933: Replacement of vagus nerve stimulation neurostimulator pulse generator.
- 69934: Revision or removal of vagus nerve stimulation neurostimulator pulse generator.
- 64568: Implantation or replacement of a neurostimulator electrode array for VNS

Currently New Mexico Medicaid covers CPT codes 69930 and 64568 at a rate above Medicare reimbursement rate.

**SIGNIFICANT ISSUES**

It is not clear what “**fully reimbursed** for vagus nerve stimulation” means in House bill 53. Medicaid rates are established in the Fee Schedule. Codes 66930 and 64568 are reimbursed at

150% of the Medicare Fee schedule. Clarification of the identified additional increase, based on HB53, is necessary.

Per NMAC 8.310.3.11.B General reimbursement: (1) reimbursement to professional service providers is made at the lesser of the following (a) the provider's billed charge; or (b) the MAD fee schedule for the specific service or procedure.

To support ongoing reimbursement the funding would need to be reoccurring.

### **PERFORMANCE IMPLICATIONS**

Increases in reimbursement may increase access to vagus nerve stimulation services for New Mexico Medicaid recipients.

### **ADMINISTRATIVE IMPLICATIONS**

Deviation for current reimbursement rates would require minor claims processing system edits.

Deviation from current reimbursement methodologies described in NMAC 8.310.3.11B would require a Medicaid State Plan Amendment to address the change in payment methodology, significant claims processing system edits, NMAC revisions, and managed care Letters of Direction.

This bill will require a system change in the financial services Information Technology (IT) system. This change will be part of maintenance and operations (M & O) and will be made at no additional cost. The specific requirements would need to be gathered before a timeline for completion could be estimated.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No known conflicts, duplications, companionship or relationship to other bills at this time.

### **TECHNICAL ISSUES**

The language "fully reimbursed" must be clarified.

FMAP is calculated each federal fiscal year by the US Department of Health and Human Services (HHS) therefore is subject to change. This can impact the estimated total budget.

### **OTHER SUBSTANTIVE ISSUES**

No known other substantive issues.

### **ALTERNATIVES**

A percent increase to the current reimbursement rates is an alternative approach.

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

Status quo

### **AMENDMENTS**

No known amendments at this time.