

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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: 2/5/2025

Check all that apply:

Bill Number: HB271

Original Correction

Amendment Substitute

Sponsor:	Representatives Rod Montoya	Agency Name and Code Number:	Office of Superintendent of Insurance -
	and Jenifer Jones		440
Short Title:	<u>HEALTH CARE SHARING MINISTRIES & INSURERS</u>	Person Writing	<u>Viara Ianakieva</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	NA

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 271 (HB271) adds a new section to the New Mexico Insurance Code declaring that a health care sharing ministry is not an insurer as defined by the Insurance Code. HB271 uses the definition of “health care sharing ministry” (HCSM) in 26 U.S.C. 5000A(d)(2)(B)(i) and (ii)(I) through (V). The bill establishes conditions of operation for the HCSMs including a requirement for the HCSM to provide a disclaimer on behalf of the ministry that states that the “organization facilitating the sharing of medical expenses is not an insurance company, and the HCSM’s guidelines and plan of operation are not an insurance policy.” The notice must also state that participation in the ministry is completely voluntary. The effective date is May 20, 2025.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The National Association of Insurance Commissioners (NAIC) explains that health care sharing ministries are “organizations in which the members pay in and share the costs of health care. A member will typically contribute a monthly payment to cover the qualifying medical expenses of other members. The HCSM will match paying members who need the health care funds or pool all the monthly shares and administer payments to members directly.” These organizations offer arrangements that can be misinterpreted to provide an alternative to traditional major medical health insurance. See <https://content.naic.org/article/what-you-should-know-about-health-care-sharing-ministries-discount-plans-and-risk-sharing-plans>

It is important to note that HCSM arrangements do not provide comprehensive health benefits and consumer protections included in traditional coverage subject to state and federal law. For example, major medical policies subject to the Patient Protection and Affordable Care Act (PPACA) and the Insurance Code cover pre-existing conditions and essential health benefits such as doctors’ services, inpatient and outpatient hospital care, prescription drug coverage, pregnancy and childbirth, mental health services and emergencies, without yearly and lifetime coverage limits. Major medical coverage in New Mexico must include free preventive care and a variety of coverage mandates in addition to the essential benefits, all subject to Maximum Out of Pocket (MOOP) limits. Consumer protections under the Insurance Code and New Mexico Administrative Code also extend to other types of health products such as short term, excepted benefits and long-term care insurance by subjecting these products to form and rate review to ensure minimum coverage is provided and that premiums charged are fair and reasonable and comparable to the benefits offered.

Major medical coverage alternatives such as HCSM plans are presumed to be cheaper than traditional, comprehensive health insurance plans. However, in New Mexico, health insurance affordability initiatives have made health insurance accessible with reasonable pricing on the New Mexico Health Insurance Exchange, beWell, despite modest rate changes. Based on an analysis performed by OSI’s contractors:

- Individuals making under \$30,000 a year or a family of four up to \$62,000 will have access to at least 8 Turquoise Plans with a premium under \$10 a month.
- Individuals making up to \$45,000 a year or a family of four up to \$93,000 a year can choose from 6 Turquoise Plans for under \$25 a month.
- Individuals making up to \$60,000 a year or a family of four up to \$124,000 per year can find Turquoise Plans for less than \$125 a month per family member.

The Office of Superintendent of Insurance is currently involved in a significant amount of

litigation involving health care sharing ministries. One of the legal matters currently pending includes an appeal of an administrative order finding that a health care sharing ministry was engaging in the business of insurance which resulted in the imposition of a \$2.51 million fine. The Office of Superintendent of Insurance has successfully stopped several other health care sharing ministries from engaging in the business of insurance in New Mexico. Passage of HB271 would allow those entities to re-enter the New Mexico market and result in additional litigation whether HB271 should be applied retroactively to prior enforcement proceedings.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

HB271 as written may leave participants exposed to high financial risks and without coverage if they incur a medical expense that is partially covered or not covered at all.

HB271 specifies that a health sharing ministry would provide for the financial and medical needs of a participant through the coordination of contributions from other participants. This language is ambiguous and does not clarify what would be included in “providing for the financial and medical needs of a participant” and what is the purpose of this arrangement since HB271 excludes assumption of risk and financial obligations on behalf of the ministry or participants, even though by the very language of the notice required in Subsection (B)(3), there is great risk in not getting medical expenses covered.

The language is unclear and may meet criteria specified in NMSA 1978, §59A-1-13, which describes the regulatory authority of the Office of Superintendent of Insurance in relation to transacting the business of insurance: "transacting insurance" with respect to an insurance contract or a business of insurance includes any of the following, by mail or otherwise or whether or not for profit:

- A. solicitation or inducement;
- B. negotiation;
- C. effectuation of an insurance contract;
- D. transaction of matters subsequent to effectuation and arising out of such a contract;
- E. maintenance in this state of an office or personnel performing any function in furtherance of an insurer's business of insurance; or
- F. maintenance by an insurer of assets in trust in this state for the benefit, security or protection of its policyholders or its policyholders and creditors.

HB271 references the term “qualified needs” but there is no definition of the term or specified criteria demonstrating what needs may qualify for participant contributions. Since the law does not provide any assumption of risk or guarantee that the health care sharing ministry will pay any of the participants, there are no guardrails to ensure that participant contributions are used for medical expenses or as expected.

OTHER SUBSTANTIVE ISSUES

Major medical coverage alternatives like HCSMs can encourage adverse coverage selection where healthier individuals opt for lower cost coverage, or no coverage at all, and leave a disproportionate number of high-risk individuals to be covered under the PPACA plans offered on beWell. This selection increases the risk and health premiums in ACA plans.

Participants with major medical coverage alternatives like HCSMs can leave participants without coverage when they need it the most and important protections under state and federal law.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

Even if a notice says that a product is not insurance, consumers may not understand what that actually means in practice. OSI recommends clarifying that participants may be responsible for paying the full amount of their medical bills:

“Notice: The organization facilitating the sharing of medical expenses is not an insurance company, and the health care sharing ministry's guidelines and plan of operation are not an insurance policy. Whether anyone chooses to assist you with your medical bills will be completely voluntary because participants are not compelled by law to contribute toward your medical bills. Therefore, participation in the ministry or a subscription to any of its documents should not be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this organization continues to operate, you are always personally responsible for the full payment of your own medical bills.”.