LFC Requester:	RubyAnn Esquibel

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: 1/22/2025
Bill Number: SB62

Check all that apply:
Original __ Correction __
Amendment X Substitute __

Sponsor: Elizabeth "Liz" Stefanics
Elizabeth "Liz" Thomson
Short Title: Pharmacy Benefit Manager Fees

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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	1,516.0	60,064.0	65,188.0	126,768.0	Recurring	NMPSIA Fund

(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

Proposes amendments to the Pharmacy Benefits Manager Regulation Act (Section 59A-61-1 NMSA 1978) to enhance transparency and regulate the operations of pharmacy benefits managers (PBMs). The bill introduces definitions for "bona fide service fee" and "conflict of interest," specifying that PBMs may only collect fees that are flat dollar amounts, consistent with fair market value, and directly related to pharmacy benefits management services. Any remuneration beyond these bona fide service fees is considered a conflict of interest.

The legislation expands the scope of entities involved in pharmacy benefits management to include health insurers and other third parties. It grants the superintendent of insurance the authority to identify additional services that constitute pharmacy benefits management activities through rulemaking, ensuring comprehensive oversight of PBM practices.

To operate in New Mexico, PBMs are required to obtain licensure from the superintendent of insurance, with mandatory annual renewals. The superintendent holds the power to revoke licenses if PBMs fail to comply with the act's provisions, reinforcing accountability within the industry.

The bill also classifies certain actions by PBMs as unfair or deceptive trade practices, aligning with the Unfair Practices Act. This classification aims to protect consumers and pharmacies from unethical practices, promoting fairness in the pharmaceutical benefits sector.

These actions include:

- Engaging in conflicts of interest: Situations where a PBM or its affiliate receives any remuneration, other than a bona fide service fee, from providing pharmacy benefits management services.
- Collecting fees beyond bona fide service fees: Charging fees that are not flat dollar amounts, not consistent with fair market value, or not directly related to the provision of pharmacy benefits management services.

The effective date is not stated in the bill**.** Effective Date would default to be June 20, 2025.

FISCAL IMPLICATIONS

Preliminary analysis estimates a combination of significant fiscal impacts. Due to key factors NMPSIA’s preliminary findings show a significant impact that includes a $7.1 million loss with an anticipated recurring annual increase of 9% for the loss of reimbursed fees along with added fees to the Plan, additionally with the potential reclassification requirements, NMPSIA’s cost savings program Prudent Rx may be discontinued, resulting in a $3.2 million loss with an anticipated recurring annual increase of 8%, furthermore rebates and point of sale rebates will be affected as a result of these changes, creating a $49.7 million loss in rebates with an anticipated

recurring annual increase of 8.5%. The anticipated impact for NMPSIA is currently totaling a $60 million loss in FY26 with expected recurring increased losses in subsequent years of 25.5%.

Preliminary Projected Cost Impact to NMPSIA Plan

	FY25	FY26	FY27
MAF and PBM Fees	$179,000	$7,120,000	$7,760,000
PrudentRx Elimination	$82,000	$3,216,000	$3,473,000
Total Projected Plan Impact	*$1,516,000*	*$60,064,000*	*$65,188,000*

Preliminary Projected Cost Impact to NMPSIA Members

	FY25	FY26	FY27
Rebate Elimination (POS)	$115,000	$4,521,000	$4,905,000
PrudentRx Elimination	$9,000	$328,000	$354,000
Total Projected Member Impact	*$124,000*	*$4,849,000*	*$5,259,000*

SIGNIFICANT ISSUES

1. Manufacturer Administrative Fees (MAF)- PBMs collect MAF from manufacturers as part of rebate processing. Under the current arrangement, 100% of MAF is passed back to NMPSIA. This legislation would prohibit the collection of MAF, resulting in a significant loss of funds for the Plan. This would benefit drug manufacturers who would no longer have to pay these fees.
2. Per-Claim Administrative Fees- NMPSIA's traditional pricing model does not impose per-claim administrative fees. The proposed legislation would require PBMs to charge such fees, leading to increased costs for NMPSIA and its members.
3. Formulary Change- NMPSIA may be required to change its drug formulary which will result in an additional loss of rebates and are likely to be substantial. The member will endure increased costs as well as the plan.
4. Pricing Models- As currently presented this analysis assumes that the current transparent pricing model would be acceptable under this Bill. However, If the implication of this Bill is to move to a NADAC pricing model. Potential additional costs around $2,524,000 would be added to current annual costs, along with other implications. NMPSIA would need to then re-submit their analysis and append their review to incorporate additional costs and implications. (Cost estimate for the NADAC pricing model are based off of claims data from August 2023 – July 2024.)

This represents a preliminary analysis of SB62 impacts and is not comprehensive due to time constraints. A more detailed analysis is currently underway and is expected to identify additional fiscal impacts. However, the comprehensive review will take at least two weeks to complete. As the analysis continues, we anticipate identifying further areas of fiscal impact that could increase the overall effect of this legislation. NMPSIA will submit an amended FIR as soon as possible.

PERFORMANCE IMPLICATIONS

The legislation is anticipated to disrupt the current pricing and administrative fee structures, which could affect the overall performance and cost-efficiency to NMPSIA's members and plan.

ADMINISTRATIVE IMPLICATIONS

The bill would impact two key areas of the existing pricing and administrative fee structure.

NMPSIA benefits from an arrangement that does not include per-claim fees. This change would introduce additional costs for the Plan, as PBM's would now impose fees for each individual claim processed, a shift that will likely lead to increased administrative expenses over time.

Additionally, potential costs incurred from a required contract re-negotiation and implementation have not been realized. The potential administrative burden and financial impact of these changes must be carefully considered as the Plan adapts to the new regulatory environment.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

While the legislation ostensibly benefits the manufacturing industry, it does so at the direct expense of both members and their health plans. The financial burden is disproportionately shifted away from pharmaceutical manufacturers and onto members and their plans, exacerbating the already tenuous balance of affordability.

Statutory language necessitates the reclassification and potential subsequent discontinuation of critical cost-saving programs, effectively nullifying their financial benefits. This shift results in increased out-of-pocket costs for members or additional financial obligations for NMPSIA plans, depending on the tier of medication. This reallocation of costs may be detrimental to those NMPSIA is designed to serve.

Moreover, the implementation of this legislation will likely generate unforeseen expenses and logistical challenges. These include potential IT system overhauls and infrastructure modifications to accommodate the new requirements. These costs, though presently unquantifiable, represent significant liabilities that would further harm members and NMPSIA's plans.

OTHER SUBSTANTIVE ISSUES

Manufacturer Administrative Fees (MAF): Due to the proprietary nature of MAF details, true figures remain unknown to NMPSIA or what financial obligations NMPSIA or its members will assume under the proposed model. This introduces uncertainty and potential substantial financial risk to the plan.

Per-Claim Administrative Fees: The current traditional pricing model avoids per-claim administrative fees, but the proposed legislation mandates PBMs to impose such fees, directly increasing costs for NMPSIA and its members.

ALTERNATIVES
WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
AMENDMENTS