

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: _____ *Check all that apply:*
Bill Number: SB193 Original Correction
 Amendment Substitute

Sponsor: Senators O'Malley, Padilla, Charley, and Sedillo Lopez **Agency Name and Code Number:** Office of Superintendent of Insurance - 440
Short Title: Weight Loss Drug Insurance Coverage **Person Writing:** Viara Ianakieva
Phone: 505-508-9073 **Email:** Viara.ianakieva@osi.n

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(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	N/A	See fiscal impact and alternate section below	See fiscal impact and alternate section below	See fiscal impact and alternate section below	Recurring	General Fund
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(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 193 (SB193) amends the Health Care Purchasing Act to require Group health coverage, (including self-insurance, offered, issued or renewed) who provide coverage for prescription benefits to provide coverage for at least one glucagon like peptide-1 receptor agonist (GLP-1) for weight management in adults with obesity.

SB193 amends the Insurance Code (NMSA 1978, Sections 59A-22 and 59A-23) to require individual or group health insurance policies, blanket health insurance policies, health care plans or certificate of health insurances who provide coverage for prescription benefits to provide coverage for at least one GLP-1 for weight management in adults with obesity.

SB193 amends the Health Maintenance Organization Law to require individual or group health maintenance contracts that are delivered, issued for delivery or renewed and who provide coverage for prescription benefits to provide coverage for at least one GLP-1 for weight management in adults with obesity.

SB193 amends the Nonprofit Health Care Plan Law to require individual or group health care plans that are delivered, issued for delivery or renewed and who provide coverage for prescription benefits to provide coverage for at least one GLP-1 for weight management in adults with obesity.

FISCAL IMPLICATIONS

SB193 as written, may trigger the Affordable Care Act (ACA) defrayal requirement and require New Mexico to defray the cost for the coverage of the drug incurred per person in the individual and small group markets in excess of the coverage offered under the benchmark plan. The benchmark plan allows for the coverage of prescription drugs that are medically necessary for the treatment of obesity and morbid obesity. While SB 193 appears to imply that the prescription of GLP1s would need to be medically necessary, it is not explicitly required. Given the high cost and popularity of these drugs, the defrayal amount may be significant.

OSI is unable to predict the cost of the defrayal and premium increases for this new mandate because GLP-1s have multiple indications and are not only used for weight loss. OSI expects that this mandate will have an increased premium impact on the large group market. To avoid the cost defrayal in the ACA market and reduce the premium impact in the large group market, OSI recommends narrowing the coverage to medically necessary treatment for morbid obesity and obesity. See the “Alternatives” section below.

Regarding defrayal, the federal ACA requires all major medical health commercial insurance marketed to individuals and small groups to cover a standard group of benefits. This standard group of benefits is called a “benchmark” plan. The ACA requires states to set this benchmark

plan based on popular existing health plans. The actuarial value of this benchmark plan is then used to calculate the premium tax credits consumers will receive from the federal government to help subsidize purchasing coverage through the health insurance marketplace. The federal government has an interest in ensuring that states will not continue adding benefits to their benchmark plans because this would increase the amount the federal government would have to pay to a state's residents in advance premium tax credits.

To limit the amount the federal government would be required to pay for premium tax credits in any given state, the ACA requires states to defray the costs of any newly mandated benefits. Newly mandated benefits are any legislatively or administratively mandated benefits in excess of the benchmark and any benefits not mandated by the state prior to the passage of the ACA. See 42 U.S.C.A. § 18031 and 45 CFR §155.170 and <https://www.cms.gov/CCIIO/Resources/Files/Downloads/ehb-faq-508.pdf>. The amount the state is required to defray for the cost for any newly mandated benefits is based on the actuarial value of the new benefit.

SIGNIFICANT ISSUES

The drug class "GLP-1 agonist" has multiple indications and is not only used for weight loss. The senate bill does not specify GLP-1 agonists with an FDA indication for weight loss, obesity, or whether coverage would need to be provided only for medically necessary treatment of morbid obesity and obesity. The FDA recently published concerns over the use of non-FDA approved GLP-1 agonists as an option for weight loss. This includes compounded dosage forms, and drugs/dosage forms not FDA approved for weight loss.

At this time, GLP-1 drugs are FDA approved for Type 2 Diabetes, obesity and one has been approved for the treatment of heart disease. However, there is ongoing research, and off-label uses for a multitude of other disorders.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OSI recommends an amendment from "prescribed" to "FDA approved" throughout the bill because not all GLP-1 agonists are approved or appropriate for the treatment of weight management related to obesity. Off-label prescribing of GLP-1 agonists not approved for the treatment of weight management has been flagged by the FDA as a danger to patients.

Additionally recommending narrowing the scope to require coverage "when medically necessary for the treatment of morbid obesity and obesity."

OTHER SUBSTANTIVE ISSUES

Bill does not address prior authorization, step therapy, formulary tier placement, or other potential barriers to treatment for high-cost medications that are covered by an insurance carrier.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

OSI recommends clearly defining the scope of coverage to make sure GLP-1 drugs are used for what the state is potentially willing to pay for to defray the cost of these medications and not for non-medically necessary treatment. In addition, specifying that coverage is limited to medical necessity for the treatment of morbid obesity and obesity also keeps the coverage within the scope of the NM Benchmark plan and therefore avoiding defrayal.

OSI proposes the following amendments to HB193:

Page 1, Line 22: ~~prescribed~~; FDA approved

Page 2, Line 7: ~~prescribed~~; FDA approved

Page 2, line 8: ~~obesity~~; when medically necessary for the treatment of morbid obesity and obesity.”

Page 2, Line 17: ~~prescribed~~; FDA approved

Page 2, Line 18: ~~obesity~~; when medically necessary for the treatment of morbid obesity and obesity.”

Page 3, Line 1: ~~prescribed~~; FDA approved

Page 3, Line 2: ~~obesity~~; when medically necessary for the treatment of morbid obesity and obesity.

Page 3, Line 10: ~~prescribed~~; FDA approved

Page 3, Line 11; ~~obesity~~; when medically necessary for the treatment of morbid obesity and obesity.