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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Herndon</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>1/21/2025</u>
<b>SHORT TITLE</b> <u>Reimbursement for Vagus Nerve Stimulation</u>	<b>BILL NUMBER</b> <u>House Bill 53</u>
	<b>ANALYST</b> <u>Hernandez</u>

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$370.0	Recurring	General Fund

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

### Sources of Information

LFC Files

Agency Analysis Received From  
HCA

## SUMMARY

### Synopsis of Choose an item.

House Bill 53 (HB53) appropriates \$370 thousand from the general fund to the Health Care Authority (HCA) for the purpose of reimbursing practitioners who provide vagus nerve stimulation for New Mexicans who receive Medicaid.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The appropriation of \$370 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the general fund. Changing the reimbursement rate for providers for one year creates an expectation that the reimbursement will continue in future years, which makes this a recurring expense.

## SIGNIFICANT ISSUES

According to HCA, the reimbursement rate for vagus nerve stimulation varies between 100 percent of the federal Medicaid fee schedule and 150 percent of the federal Medicare fee schedule, depending on the procedure. Additionally, according to New Mexico Administrative Code (NMAC) 8.310.3.11, the state will reimburse providers at the lower of the provider's billed

charge or the relevant fee schedule. This means that providers, if they are not already reimbursed at their billed charge, are reimbursed at a pre-set rate. HCA believes that, since HB53 neither defines what it means by “fully reimburse” nor aligns with current Medicaid billing practice, the authority needs clarification on what the additional amount of reimbursement should be in order to implement HB 53.

Additionally, HCA notes that the Federal Medical Assistance Percentage (FMAP), which dictates the percentage of Medicaid reimbursement covered by the federal government, is calculated each federal fiscal year by the federal Department of Health and Human Services. For FY26, the FMAP rate is 77.89 percent. However, if the FMAP rate was to significantly decrease for FY27, then the state would be responsible for the difference, ultimately increasing state costs for reimbursing vagus nerve stimulation in future years.

Vagus nerve stimulation is a medical treatment that uses electrical impulses to treat epilepsy, depression, and symptoms caused by stroke. To provide vagus nerve stimulation, a surgeon must implant a device into the neck and chest, which then sends impulses that travel through the vagus nerve to the brain. This changes brain activity and alleviates symptoms associated with epilepsy, depression, and stroke. A recent study in *Neurology* highlighted the effectiveness of vagus nerve stimulation, identifying a 26 percent reduction in seizures for epileptic patients within the first year of treatment.

## **ADMINISTRATIVE IMPLICATIONS**

The Health Care Authority stated the following administrative implications:

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

Deviation from current reimbursement methodologies described in NMAC 8.310.3.11 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 system. This change will be part of maintenance and operations and will be made at no additional cost. The specific requirements would need to be gathered before a timeline for completion could be estimated.

## **TECHNICAL ISSUES**

HB53’s language should be clarified to specify the additional increase to the reimbursement rate meant by “fully reimburse” and to align the bill language with standard Medicaid reimbursement practice.