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## FISCAL IMPACT REPORT

SPONSOR Campos DATE TYPED 3/14/05 HB \_\_\_\_\_

SHORT TITLE Prescription Drug Purchase Standard Co-payment SB 23/aSCORC/aSPAC

ANALYST Hanika-Ortiz

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$6,500.0-\$10,500.0	Recurring	General Fund

Duplicates HB 391

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission-Insurance Division (PRC)  
 The New Mexico Retiree Health Care Authority (NMRHCA)  
 Health Policy Commission (HPC)  
 Regulation and Licensing Department (RLD)  
 New Mexico Public Schools Insurance Authority (NMPSIA)  
 General Services Department (GSD)

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment adds language permitting tiered co-payments to be based on an individual's ability to pay.

#### Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee Amendment adds language allowing the differences in co-payments between generic drugs and brand-name drugs be taken into consideration when determining co-pay amounts.

#### Synopsis of Original Bill

Senate Bill 23 adds a new section to NMSA chapters regarding the Health Care Purchasing Act,

Health Insurance Contracts, Group & Blanket Health Insurance Contracts, Health Maintenance Organizations and Nonprofit Health Care Plans. The new section requires that all health insurance coverage issued or renewed on or after July 1, 2005 offering an insured a co-payment structure for prescription drugs be the same for any prescribed drug in the same quantity and for the same duration, whether the prescription is dispensed by retail pharmacy, mail order or by any other means. This bill applies to individual and group private insurance, Health Maintenance Organizations, nonprofits and the Health Care Purchasing Act.

Significant Issues

Under the current structure, prescription drug co-pays vary if dispensed by retail pharmacy or mail order. Co-payments for a three month supply by mail order can be close to the same as the co-pay for a 30 day supply at retail pharmacies as they are typically only allowed to dispense one months supply at the same co-pay. Proponents of this bill feel that the current system is unfair to the retail pharmacy industry. They feel pharmacists do a better job providing important drug and health information to consumers with the direct patient-pharmacist interaction. Opponents would argue that mail order provides a less expensive option for the insurers and controls the cost of health insurance. Benefit plans can provide steeper discounts for mail order maintenance medications through bulk purchasing, than the discount provided through retail pharmacies

GSD reports less than 13% of all pharmacy claims are filled mail order. GSD provides the following comparison between retail and mail order co-payments.

<b>Drug Type</b>	<b>Local Pharmacy Cost</b>	<b>Mail Order Cost</b>
<b>30-day supply</b>		
Generic	\$7 to \$20	\$15
Formulary	\$14 to \$40	\$30
Non-formulary	\$30 to \$80	\$70
<b>90-day supply</b>		
Generic	\$21 to \$60	\$15
Formulary	\$42 to \$120	\$30
Non-formulary	\$90 to \$240	\$70

**PERFORMANCE IMPLICATIONS**

The PRC report SB 23 would require the re-filing of insurance contracts with the insurance division, and any impact for them would be minimal.

NMRHCA and NMPSIA report SB 23 could negatively affect their program performance standards.

**FISCAL IMPLICATIONS**

NMPSIA note members on maintenance medication for chronic conditions have lower out of pocket costs with mail order, and NMPSIA pays less for drugs. NMPSIA receive higher wholesale discounts at mail order than at the retail pharmacy level which keeps co-pays lower when

members use mail order. NMPSIA anticipate \$2.1 million in discounts, and drug rebates of \$2.6 million will be lost due to the loss of a three-tier co-pay. NMPSIA would pass on additional costs to members in the way of higher co-pays or higher premiums. NMPSIA anticipate the increased cost to members at \$745 thousand for higher co-pay costs at mail order. NMPSIA pays for over 500 thousand prescriptions annually, 12% at mail order.

NMRHCA notes prescriptions filled at the mail order facility are less expensive for them because of volume purchasing. Members of the NMRHCA are offered lower co-pays to purchase their medications through the mail order option. If co-pays at the retail pharmacy and mail order are the same, the member will have no financial incentive to purchase through the mail order facility. Co-payments are also lower for generally less expensive generic and formulary drugs. The NMRHCA report increasing the mail order co-pay to the current retail co-pay could cost members an additional \$2.1 million. Lowering the retail co-pay to the mail order co-pay totals an estimated \$1.2 million in lost revenue because of drug costs. The NMRHCA believe a flat co-pay structure would remove the incentive for members to utilize the mail order option, which could result in a New Mexico-based mail order facility leaving the state. They also believe it would remove the incentive for members to purchase less expensive generic and formulary prescription drugs.

GSD reports lower co-pays at mail order provide incentive for plan members to use. If co-pays are standardized to the retail level, their benefit plan would experience a decrease in the rebates and discounts that apply to mail order and members would experience increased premiums and higher co-pays. Discounts result in a lower premium cost and allow for lower co-pay for high use medication. GSD estimates additional costs of \$4 million, and a loss of rebates of \$1.8 million. Member out-of-pocket expenses could double annually to \$2.4 million.

According to the HPC standardizing co-payments may have an effect on costs to consumers if a co-payment adjustment is needed to compensate for the differences in cost for the method used to dispense a prescription drug.

The New Mexico Pharmaceutical Association (NMPA) claims that rebates are not dependent on where the prescription is filled. Rebates can be achieved whether filled at a community pharmacy or a mail order pharmacy. Medicaid's rebates are an example; ACS (Pharmacy Benefit Management for Medicaid) does not own a mail order company but receives rebates on medications for the Medicaid fee-for-service program. NMPA believes insurance groups should see decrease costs for their programs.

## **ADMINISTRATIVE IMPLICATIONS**

NMRHCA (34,000 participants), NMPSIA (84,000 participants), and GSD anticipate an increase in workload and administrative costs for existing staff to implement the change, and thereafter to communicate and reinforce the change to program members and dependents.

## **TECHNICAL ISSUES**

The HPC would like to see "prescription drug" defined as to whether or not generic and brand name drugs are considered the same for the purposes of the bill, as there are cost differences.

NMPSIA feels it is unclear if "uniform payment" prohibits a three-tier co-pay approach. If that is

the intent of the bill, drug rebates would be lost.

## **OTHER SUBSTANTIVE ISSUES**

U.S. Postal Service reports mail theft is one of the risks of getting prescription medicines through mail order drug suppliers. Mail order patients also may not receive pharmacist counseling about medication misuse and possible interactions and patient care services such as disease management and prevention offered by pharmacists, including flu shots, cholesterol screenings and blood pressure checks.

The objective of the Health Care Purchasing Act is to provide access to affordable health care for certain consumers. Thousands of New Mexico seniors and people with disabilities in the Medicare program have incomes that are too high to qualify for Medicaid, but limited enough that paying cash for prescription medicines presents a significant financial burden.

## **ALTERNATIVES**

The GSD notes locally-owned pharmacies and pharmacies in chain stores could offer prices competitive with the mail order prescriptions. If local pharmacies and chain store pharmacies provide medication at costs comparable with the mail order companies, there would be a decrease in costs for the prescription benefit program. The state would lose discounts, but employee co-pays and premium costs would be reduced in this favorable purchasing environment (see proposed amendment).

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

Consumers may make prescription drug purchase decisions based on co-payment costs rather than other factors, such as convenience.

## **AMENDMENTS**

The GSD proposes the following amendment:

On page 1, line 24, after the period, insert “The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means.”

On page 2, line 9, after the period, insert “The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means.”

On page 2, line 19, after the period, insert “The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means.”

On page 3, line 4, after the period, insert “The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means.”

On page 3, line 14, after the period, insert “The standard price shall be determined by the lowest price offered, whether by a retail pharmacy, by mail order company, or by other means.”