F I S C A L I M P A C T R E P O R T

SPONSOR Candelaria **ORIGINAL DATE / LAST UPDATED** 01/25/15 **HB**

SHORT TITLE Obesity & Weight Reduction Insurance Coverage **SB** 12

ANALYST Dunbar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	**FY16**		
	NFI		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate*	Indeterminate*	Indeterminate*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

*Refer to Fiscal Implications below:

SOURCES OF INFORMATION
Responses Received From
Department of Health (DOH)
Office of Superintendent of Insurance (OSI)

SUMMARY

Synopsis

Senate Bill 12 introduced on behalf of the Legislative Health and Human Services committee enacts a new section of the Health Care Purchasing Act to require that purchasers establish group coverage, including any form of self-insurance, for obesity prevention, screening and treatment, and weight reduction effective January 1, 2016.

Obesity raises the risk of morbidity from hypertension, dyslipidemia, type 2 diabetes, coronary heart disease, stroke, gallbladder disease, osteoarthritis, sleep apnea and respiratory problems, and some cancers. Obesity is also associated with increased risk in all-cause and cardiovascular disease mortality. Even modest reductions of 5% of initial weight can decrease the risk for obesity-related medical conditions and cardiovascular risk factors for many patients.

FISCAL IMPLICATIONS

According to OSI, the Affordable Care Act requires that the individual States, not insurers or individuals, will cover the cost of mandates passed after 2011 that apply to individual and small group plans sold on or off the state health insurance marketplaces. That is, if a mandate increases a plan's premium, the State will be required to pay directly for the additional premium cost that is attributable to the mandate.

Based on the above comment, the legislation in this bill has the potential of affecting the general fund. Although, it is difficult to quantify the general fund impact at this time, nonetheless, it raises questions.

SIGNIFICANT ISSUES

This bill provides a mandate for health insurers to provide coverage for obesity related conditions, but is not specific about the details of the coverage. OSI notes that meaningful compliance by carriers will be difficult to ensure.

Despite the intent that SB12 apply to self-insured group health plans, it is not clear to what extent, if any, self-insured group plans might qualify for certain exemptions from the provisions of SB12.

According to DOH, in New Mexico, over 1 in 4 adults are obese, and 34.7% of third grade students in our state were overweight or obese in 2013. If current obesity prevalence rates were even able to remain level through prevention and treatment efforts, then the projected savings for medical expenditures would be $549.5 billion nationally over the next two decades (Finkelstein et al. Obesity and Severe Obesity Forecasts Through 2030: *Am J Prev Med* 2012; 42(6): 563-570).

In June 2013, the American Medical Association (AMA), the nation's largest physician organization, adopted policy that recognizes obesity as a disease requiring a range of medical interventions to advance obesity treatment and prevention. The related *New York Times* press release noted that the move "could induce physicians to pay more attention to the condition and spur more insurers to pay for treatments." (http://www.nytimes.com/2013/06/19/business/ama-recognizes-obesity-as-a-disease.html?_r=0). Historically, however, most health insurance plans have not covered interventions in health care settings specifically related to screening, counseling or treatment for obesity.

DOH points out that prevention regulations in the Patient Protection and Affordable Care Act (ACA) require health plans to cover "Recommendations for Primary Care Practice" graded as A or B by the United States Preventive Services Task Force (USPSTF) and to eliminate cost sharing requirements for these services (http://www.uspreventiveservicestaskforce.org). The markers below summarize relevant USPSTF obesity screening and counseling recommendations for adults and children that are covered under the ACA:

- Obesity screening and counseling for adults (2012). The USPSTF recommends screening all adults for obesity. Clinicians should offer or refer patients with a body mass index of 30 kg/m^2 or higher to intensive, multi-component behavioral interventions. Grade: B

- Obesity screening and counseling for children (2010). The USPSTF recommends that clinicians screen children age 6 years and older for obesity and offer them or refer them to comprehensive, intensive behavioral interventions to promote improvement in weight status. Grade: B

Despite ACA mandated coverage for USPSTF recommendations related to obesity screening and intensive behavioral interventions, the final federal regulation did not include coverage for more intensive medical treatment modalities such as bariatric surgery or medications for weight loss and maintenance
(http://www.healthcentral.com/obesity/c/276918/163239/treatments-affordable-care/).

Obesity treatment under ACA is largely being handled at the state level according to DOH. The treatment provisions in SB12 are related to one of the key components of the ACA, a mandate that state health exchanges, starting in 2014, cover a set of health care service categories it has defined as Essential Health Benefits (EHB). This ensures that health plans offered in the individual and small group markets, both inside and outside of the Health Insurance Marketplace, offer a comprehensive package of items and services. Importantly, state-specific EHB-benchmark plans may include state-required benefits in excess of the standard EHB. New Mexico's EHB-benchmark plan includes two treatments for obesity: weight loss programs and bariatric surgery (http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/new-mexico-ehb-benchmark-plan.pdf). The intent of the provisions in SB12 would be to ensure health insurance coverage for obesity prevention, screening, treatment and weight reduction become consistent across all group plans in New Mexico, regardless of group size or purchaser type.

It is unclear whether the obesity treatment provisions of either SB12 or New Mexico's EHB-benchmark plan include coverage of medications for weight loss and/or long-term maintenance following weight loss. A January 2015 article in *Kaiser Health News* noted that "most insurers do not cover drugs approved to help people lose weight" (http://www.healthcentral.com/obesity/c/276918/163239/treatments-affordable-care/).

The same article explained that in its 2012 obesity recommendation for adults, the USPSTF "declined to recommend prescription drugs for weight loss, noting a lack of long-term safety data, among other things". The article noted, however, that the USPSTF analysis was based on a group of older drugs, and that the FDA has approved four prescription drugs to fight obesity since 2012.

Significant disparities in obesity rates exist among racial and ethnic sub-populations. Of adults in New Mexico, prevalence rates of obesity in 2013 were 36.3% for American Indians, 30.8% for Hispanics, and 20.8% for Whites. A similar pattern is seen in both adolescents and elementary school-age children, with American Indian students consistently having the highest prevalence of childhood obesity compared to their Hispanic and White counterparts. Of New Mexican third graders, prevalence rates of obesity in 2013 were 29.5% for American Indian students, 22.8% for Hispanic students, and 12.8% for White students.

PERFORMANCE IMPLICATIONS

SB12 relates to one of the nine health indicator priorities in the New Mexico Department of Health *2014 State Health Improvement Plan*: reduce child and adolescent obesity in NM.

ADMINISTRATIVE IMPLICATIONS

The bill imposes a coverage requirement on health insurers in the State. Other than reviewing carrier forms for the coverage inclusion, there is little fiscal impact on OSI.

BD/aml