

In its analysis of duplicate House Bill 112, the NMDOH reported that the American Society of Internal Medicine recommends that health insurers provide notification of drug formulary changes not less than 90 days before implementation, during the current plan year.

OSI reports that the proposed legislation would create a significant change in the way health plan formularies currently function. Additionally, it would create a change in the way provider contracts are written. In order for OSI to take consumer complaints on formulary violations, investigate claims and take corrective enforcement action, plus enforce the provider contract regulation, OSI would need one FTE at a cost of \$75 thousand to cover salary and benefits.

SIGNIFICANT ISSUES

OSI cautions we may soon have new federal statutes regarding health insurance, and it is hard to say what the consequences of enacting or not enacting this bill will be in any changed regulatory environment. Currently, health insurers are able to change their formularies in the middle of the plan year. They are also able to drop providers in the middle of the plan year; however, regulations are in place to ensure health insurers meet network provider adequacy requirements.

PERFORMANCE IMPLICATIONS

According to DOH, there are four states with legislation or regulations that limit when health plan insurers may change their prescription drug formularies. Louisiana and Nevada do so through regulations while New Mexico and Connecticut restrictions are contained in statute.

TECHNICAL ISSUES

OSI also notes the bill refers to “the administrator for group health coverage”. Typically, an “administrator” is a business with a third-party administrator license from OSI, who handles the customer service and claims administration of a self-insured health plan. These administrators are considered contractors of the self-insured plan and fall under the U.S. Department of Labor (not OSI) enforcement of the self-insured health plan. OSI recommends language specifically identifying administrators as those in the employment of companies who provide fully-insured insurance. OSI suggests amending all references to “group health plan administrator” to “group health plan administrator of a fully-insured plan” and adding a definition for “fully-insured”.

OTHER SUBSTANTIVE ISSUES

Well run formularies can offer the safest, most effective and least costly prescription drugs.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB112 is not enacted, the Health Care Purchasing Act, The New Mexico Insurance Code, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law will not be amended to change drug coverage and formulary timelines, or provider contract requirements.