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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/19

SPONSOR Sedillo Lopez LAST UPDATED _____ HB _____

SHORT TITLE Educational Employment Occupational PTSD SB 562

ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate but minimal				Recurring	Workers' Compensation

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files
 American Psychiatric Association (APA)
 National Institutes of Health (NIH)

Responses Received From

Workers' Compensation Administration (WCA)

SUMMARY

Synopsis of Bill

Senate Bill 562 adds a new section to Section 52-3 NMSA 1978, New Mexico's Occupational Disease Disablement Law which carves out an exception for educational employees. The exception includes language that adds post-traumatic stress disorder (PTSD) as an adverse medical condition entitling educational employees to a presumption in favor of benefits.

To qualify for the presumption, there must be no evidence that the PTSD preexisted the educational employment. The bill does not require a minimum period of employment as an educational employee before the presumption applies. The bill also provides for medical treatment until it is determined that the presumption does not apply, in which case the employer's insurer shall be reimbursed.

FISCAL IMPLICATIONS

A PTSD diagnosis could give rise to a rebuttable presumption in favor of benefits. This outcome could result in the possibility of additional cases necessitating dispute resolution by the Workers' Compensation Administration.

SIGNIFICANT ISSUES

NIH observes, based upon the 2005 National Comorbidity Survey-Replication study, PTSD affects approximately 7.7 million American adults in a given year. The disorder can develop at any age, including childhood.

SB 562 applies to all educational employees, either licensed or unlicensed, employed at a public or private school. Medical treatment shall be provided until a court of competent jurisdiction determines that the presumption does not apply. If it is determined the presumption does not apply or the PTSD is not job related, the employer's workers' compensation insurance provider shall be reimbursed for health care costs by the medical or health insurance plan or benefit provided for the educational employee by the employer.

WCA notes under current law, educational employees may file a claim for benefits asserting that a diagnosis of PTSD is related to employment. In those instances when an employer denies the PTSD is connected to employment, the worker can establish the causal relationship through medical testimony of a health care provider testifying within that area of expertise. If the opinion offered by a worker's health care provider is not controverted by another health care provider or independent medical examiner, the worker's physician's opinion on causation is binding under the uncontroverted medical evidence rule in workers' compensation. In the current legal framework, the onus is placed on the educational employee to demonstrate entitlement to benefits. SB 562 will treat PTSD as a presumed condition.

ADMINISTRATIVE IMPLICATIONS

The number of disputed claims filed with WCA may increase under SB 562.

OTHER SUBSTANTIVE ISSUES

According to APA:

“PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war/combat, rape or other violent personal assault.

PTSD has been known by many names in the past, such as “shell shock” during the years of World War I and “combat fatigue” after World War II. But PTSD does not just happen to combat veterans. PTSD can occur in all people, in people of any ethnicity, nationality or culture, and any age. PTSD affects approximately 3.5 percent of U.S. adults, and an estimated one in 11 people will be diagnosed PTSD in their lifetime. Women are twice as likely as men to have PTSD.

People with PTSD have intense, disturbing thoughts and feelings related to their experience that last long after the traumatic event has ended. They may relive the event through flashbacks or nightmares; they may feel sadness, fear or anger; and they may feel detached or estranged from other people. People with PTSD may avoid situations or people that remind them of the traumatic event, and they may have strong negative reactions to something as ordinary as a loud noise or an accidental touch.

A diagnosis of PTSD requires exposure to an upsetting traumatic event. However, exposure could be indirect rather than first hand. For example, PTSD could occur in an individual learning about the violent death of a close family. It can also occur as a result of repeated exposure to horrible details of trauma such as police officers exposed to details of child abuse cases.”

VKH/al