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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/28/2020  
**LAST UPDATED** 2/17/2020

**SPONSOR** SFC **HB** CS/100/aSFC

**SHORT TITLE** Health Insurance Exchange Changes **SB** \_\_\_\_\_

**ANALYST** Esquibel

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>HSD NMHIX Medicaid Assessment</b>			\$70.4	\$70.4	Recurring	General Fund
<b>HSD NMHIX Medicaid Assessment</b>			\$249.6	\$249.6	Recurring	Federal Medicaid Matching Funds
<b>Office of Superintendent of Insurance NMHIX actuarial studies</b>			\$200.0	\$200.0	Recurring	General Fund
<b>Aging &amp; Disability Resource Center training</b>			\$3.0	\$3.0	Recurring	General Fund
<b>Federal Funds Total</b>			\$249.6	\$249.6	Recurring	Federal Medicaid Matching Funds
<b>General Fund Total</b>			\$273.4	\$273.4	Recurring	General Fund
<b>TOTAL</b>			\$523.0	\$523.0	Recurring	General Fund, Federal Medicaid Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Medicaid Program's appropriation in the General Appropriation Act.

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Aging and Long-Term Services Department (ALTSD)

Attorney General's Office (NMAG)  
Department of Health (DOH)  
Human Services Department (HSD)  
Office of the Superintendent of Insurance (OSI)  
New Mexico Health Insurance Exchange (NMHIX)

## **SUMMARY**

### Synopsis of SFC Amendments

The Senate Finance Committee (SFC) amendments to the House Judiciary Committee Substitute for House Bill 100 strike the definitions of both an insurance agent and an insurance broker from the New Mexico Health Insurance Exchange Act, and instead add the definition of an “insurance producer” as a person required to be licensed in New Mexico to sell, solicit or negotiate insurance. The SFC amendments remove references to insurance brokers and insurance agents throughout the bill and replace them with “insurance producer.”

The SFC amendments to HB100/HJCS add that “insurance producers appointed and compensated by the insurance industry” will coordinate with the Board of Directors of the New Mexico Health Insurance Exchange (NMHIX) to review NMHIX’s plan of operation to ensure the Exchange is operated using best practices for state-based Exchanges in business administration, consumer engagement, and public outreach and marketing.

### Synopsis of Original Bill

The House Judiciary Committee Substitute for House Bill 100 would amend certain provisions of the New Mexico Health Insurance Exchange (NMHIX) to broaden the Exchange’s authority to dictate which plans are sold through the Exchange and how they are sold. HB100/HJCS would grant the Exchange the authority to decide, in coordination with the Office of Superintendent of Insurance, what health insurance plans offered on the Exchange should contain in terms of benefit design and consumer cost-sharing structures.

HB100/HJCS would grant NMHIX the authority to work with third parties to pay premiums and cost-sharing on behalf of qualified individuals. The bill would also permit NMHIX to have more flexibility to set open enrollment periods, in consultation with the Office of Superintendent of Insurance, to enroll consumers in health insurance.

Section 2 is amended to add definitions for “bronze plan,” “enrollee,” “gold plan,” “health benefit plan,” “qualified employee,” “qualified employer,” “qualified health plan,” “qualified individual,” “silver plan,” and “small business health options program.” The bill clarifies that bronze, silver, and gold plans includes a level of coverage or the allowable value as defined by federal regulations. Qualified health plans would have to be certified by the Superintendent of Insurance.

Section 3 removes the prohibition against NMHIX from purchasing qualified health plans to offer for purchase through the Exchange. It also removes the New Mexico Health Insurance Alliance from the conflict of interest exception.

Section 4 is amended to require the Board of the Exchange by September 1, 2020, to review its plan of operation to ensure NMHIX is operated using best practices for state-based Exchanges in business administration, consumer engagement, public outreach, and marketing. The plan of operation shall include details on the contents of the reports required pursuant to the New Mexico Health Insurance Exchange Act.

Section 5 is amended to require the Superintendent of Insurance to coordinate with the Board of the Exchange to promulgate rules necessary to implement and carry out the provisions of the New Mexico Health Insurance Exchange Act, including rules to establish the criteria for certification of qualified health plans.

Section 6 adds a new section that establishes additional duties and powers of the Exchange Board, including for review and recommendation of benefits plans, allowing certain entities to pay premiums and cost-sharing for qualified individuals, determining enrollment eligibility, establishing and making available a public calculator for determining cost of coverage after applicable tax credits, and maintaining a statewide consumer assistance program.

Section 7 adds a new section authorizing the Exchange Board to establish no more than three standardized health plans and to require notice and public comment before finalizing each year's standardized health plans.

Section 8 adds a new section on requirements for the Board of the Exchange for public reporting including during all NMHIX open enrollment periods beginning on or after October 1, 2021, the Board shall produce weekly reports that include information on (1) applications; (2) plan selections; (3) new enrollees; (4) enrollees renewing coverage; (5) call center volume; and (6) website traffic.

Also, within 60 days following the last day of each open enrollment period beginning on or after October 1, 2021, the Board shall produce a report with the number of effectuated enrollments from the most recent open enrollment period.

And beginning on September 1, 2022, and on each succeeding September 1, the Board, in consultation with the Superintendent of Insurance, shall issue a report that includes analysis of (1) the individual health insurance market; (2) on- and off-exchange enrollment and demographics; (3) small business enrollment; (4) qualified health plan pricing; (5) outreach and enrollment assistance activities; (6) the impact of offering standardized health plans; and (7) the remaining uninsured in New Mexico and strategies to reach them.

## **FISCAL IMPLICATIONS**

HSD reports implementation of HB100/HJCS would require NMHIX to hire additional staff and to contract for additional actuarial services in FY22. NMHIX assesses a fee on all health insurance carriers, including Medicaid, by market share to support the NMHIX operating budget. The state Medicaid program is projected to cover 848,806 New Mexicans in FY21 and HSD is assessed for 78 to 80 percent of the funds that support the operations of NMHIX. HSD indicates it is unable to estimate a cost to the Medicaid program until the NMHIX changes are implemented. HSD's FY21 Medicaid budget includes a NMHIX assessment of up to \$5.3 million from the general fund and a total assessment of \$26.4 million including federal Medicaid matching funds.

NMHIX reports states which have implemented standardized plans as proposed in the bill have hired up to 3 FTEs costing approximately \$300 thousand and procured actuarial services at approximately \$250 thousand annually. NMHIX estimates the fiscal impact of the bill would be up to \$200 thousand for its actuarial services and up to \$200 thousand for salaries and benefits for 2 FTE for an estimated total of \$400 thousand.

The Office of the Superintendent of Insurance (OSI) writes, "...[there is a] cost to the OSI for the actuarial studies that are performed on behalf of the Exchange. Language clarifying the responsibility of the Exchange to compensate for this work from its assessments would be helpful and relieve a cost burden to the OSI." HB100/HJCS does not include language specifying that NMHIX will compensate OSI from NMHIX assessed fees for actuarial analyses performed by OSI on behalf of the Exchange. NMHIX indicates its actuarial costs associated with the bill are estimated at \$200 thousand, and it is estimated OSI would have similar actuarial costs of \$200 thousand associated with the provisions of the bill which would be funded from the general fund. If NMHIX, a quasi-governmental agency, transferred revenue to a governmental agency—OSI, through some mechanism to be determined, the general fund actuarial costs at OSI would instead be borne by NMHIX which would translate to a fiscal impact to HSD's Medicaid program of approximately \$32 thousand from the general fund and \$128 thousand in federal Medicaid matching funds.

NMHIX reports its operating revenue is generated through an assessed fee on health insurance plans in New Mexico with approximately 80 percent of the assessed fee incurred by Medicaid MCOs and 20 percent assessed to commercial health plans. The cost of the provisions in the bill would result in increased costs to the state's Medicaid budget of approximately 80 percent of the estimated \$400 thousand, or \$320 thousand. Of the \$320 thousand, approximately \$70.4 thousand (22 percent) in general fund revenue could leverage \$249.6 thousand (78 percent) from federal Medicaid funds.

The General Appropriation Act of 2020, as passed by the House, includes in the Medicaid program budget \$500 thousand from the general fund that can be leveraged with federal funds for coverage initiatives. This funding may be duplicative of the HB100/HJCS requirement for NMHIX to issue a report on the state's remaining uninsured and strategies to reach them.

Under the provisions of HB100/HJCS, the ALTSD Aging and Disability Resource Center and Care Transitions staff would need additional and updated training regarding the health exchange so the call center staff is able to provide relevant information to callers regarding their options. It is estimated this training is similar to other training costs estimated at \$3 thousand.

## **SIGNIFICANT ISSUES**

The Human Services Department (HSD) reports it is collaborating with the New Mexico Health Insurance Exchange (NMHIX) to ensure New Mexicans have access to health insurance coverage, and the provisions contained in the bill could smooth the transition for clients between Medicaid and NMHIX coverage.

The Human Services Department contracted with the Urban Institute to conduct a demographic study of New Mexico's uninsured populations  
[https://www.hsd.state.nm.us/uploads/PressRelease/2f473c14ee654f868b5a25b3cfd15a6d/PR\\_Urban\\_Institute\\_Uninsured\\_in\\_NM\\_12\\_18\\_19.pdf](https://www.hsd.state.nm.us/uploads/PressRelease/2f473c14ee654f868b5a25b3cfd15a6d/PR_Urban_Institute_Uninsured_in_NM_12_18_19.pdf). According to the study, New Mexico has 187

thousand individuals under age 65 who are uninsured, and of that total, 43 thousand individuals are eligible for premium tax credits on the New Mexico Health Insurance Exchange.

HSD reports it is analyzing the impact to individuals with Medicaid coverage from the minimum wage increase to \$9 statewide in New Mexico. HSD estimates 5,910 adults could lose Medicaid coverage in 2020 from the wage increase placing them above the federally mandated income threshold for adult Medicaid coverage. HSD plans on working with NMHIX to determine how best to reach out to these individuals to alert them to the potential loss of coverage and options available to them on the New Mexico Health Insurance Exchange.

## **ADMINISTRATIVE IMPLICATIONS**

The Aging and Long-Term Services Department (ALTSD) reports its Aging and Disability Resource Center (ADRC) provides health insurance information and referral to consumers. The counseling includes information about public and private insurance options. The health insurance exchange is generally unavailable to the Medicare eligible population; however, the exception to this rule are Medicare eligible people who do not qualify for free Part A (hospitalization) coverage and who are ineligible for assistance through Medicaid through the Qualified Medicare Beneficiary (QMB) program to pay for the Part A and B premiums.

Under the provisions of the bill, the ALTSD ADRC and Care Transitions staff would need additional and updated training regarding the health exchange so the call center staff is able to provide relevant information to callers regarding their options.

## **TECHNICAL ISSUES**

The Office of the Superintendent of Insurance (OSI) is constitutionally created and charged with regulating “insurance companies and others engaged in risk assumption in such manner as provided by law.” NM Const. Art. XI, § 20. Because OSI’s scope of authority is established by the state Constitution, that scope cannot be limited or delegated through legislation. The bill could be read to be granting the Board of Directors of NMHIX with regulatory authority over certain insurance matters constitutionally conferred on OSI.

The Office of the Superintendent of Insurance (OSI) indicates NMHIX is funded through assessments from New Mexico health insurers. There is a cost to the OSI for the actuarial studies performed on behalf of the exchange. OSI is suggesting adding language to the bill clarifying the responsibility of the exchange to compensate OSI for the actuarial work from the NMHIX assessments and to offset costs at OSI.

The Department of Health indicates on page 21, line 6, Section 7(F), it may be more consistent with the language of the bill to change from “...the exchange may also require...” to “...the board may also require...”

## **OTHER SUBSTANTIVE ISSUES**

HSD reports the bill provides for NMHIX to create standardized benefits plans. Standardized benefits plans limit out-of-pocket costs for certain services (e.g., primary care, ambulatory, and behavioral health) by providing more services before the plan’s deductible must be met. For New Mexicans with low and moderate incomes, high deductibles can pose significant barriers to obtaining medical care.

Allowing NMHIX to better address affordability of its health plan offerings could improve transitions of coverage between HSD and NMHIX. HSD reports that for every three people that go to NMHIX for health insurance coverage, NMHIX sends one to HSD for Medicaid enrollment. According to NMHIX staff, 6,200 account transfers were made from NMHIX's Healthcare.gov enrollment site to HSD during the most recent open enrollment period. There were approximately 15 thousand account transfers between NMHIX and Medicaid throughout all of 2019. As NMHIX migrates to a fully state-based exchange IT platform, HSD and NMHIX are working together to ensure the IT integration necessary to smooth those account transfers. Implementation of the bill could improve this process by requiring NMHIX and HSD to work together to better facilitate enrollment between the two entities.

OSI reports standardizing benefit design as proposed in the bill can help streamline consumers' shopping experience. Currently, the District of Columbia and the states of California, Connecticut, Massachusetts, New York, Oregon, and Vermont all have standardized health plan options on their Health Insurance Exchanges.

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