

LFC Requester:

Eric Chenier

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date:** 01/31/2025 *Check all that apply:*  
**Bill Number:** HB 233 Original  Correction   
 Amendment  Substitute

**Sponsor:** Representatives Hernandez, Thomson, and Chavez **Agency Name and Code** Office of Superintendent of Insurance - 440  
**Short Title:** Diabetic Foot Ulcer Equipment Coverage **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

**SECTION III: NARRATIVE**

## **BILL SUMMARY**

House Bill 233 (HB233) amends certain sections of the Insurance Code to require coverage for durable medical equipment for the treatment of active diabetic foot ulcers, including topical oxygen therapy. Section 5 of the HB233 applies the requirement to self-insurance provided pursuant to the Health Care Purchasing Act, and all individual, group health insurance policies, health care plans, certificates of health insurance, managed health care plans contracts of health insurance, group health plans provided through a cooperative, individual and group health maintenance organization contracts, health benefit plans and group health coverage offered, delivered or issued for delivery, renewed, extended or amended in New Mexico. HB233 requires that coverage shall begin in the described insurance policies, plans, and certificates of health insurance on January 1, 2026.

## **FISCAL IMPLICATIONS**

OSI does not anticipate any fiscal implications or premium impacts.

## **SIGNIFICANT ISSUES**

This bill clarifies that medically necessary treatment of active diabetic foot ulcers includes topical oxygen therapy, which is aligned with the American Diabetes Association recommendation for an adjunctive treatment for chronic diabetic foot ulcers. See 2023 standards of care in diabetes [Clinical Practice Guidance \(CPG\) in the space](#).

The Insurance Code requires all commercial plans to provide coverage for individuals with diabetes. This coverage entitles each individual to the medically accepted standard of medical care for diabetes. Therefore, medically necessary coverage for Topical Oxygen Treatment (TOT) should not create a new mandate and trigger defrayal.

However, OSI is concerned that TOT does not qualify as Durable Medical Equipment (DME). Therefore, we are proposing to remove references in the bill to DME and require coverage for medically necessary diabetic foot ulcers, including TOT, as follows:

“When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following basic health care benefits:

- (1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:
  - (a) medically necessary visits upon the diagnosis of diabetes;
  - (b) visits following a diagnosis from a health care practitioner that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and
  - (c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and
- (2) medical nutrition therapy related to diabetes management;
- (3) medically necessary treatment of active diabetic foot ulcers, including topical oxygen therapy.”

## **PERFORMANCE IMPLICATIONS**

None.

**ADMINISTRATIVE IMPLICATIONS**

None.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

Status quo.

**AMENDMENTS**

OSI proposes to include “medically necessary treatment of active diabetic foot ulcers, including topical oxygen therapy” in NMSA 1978, 59A-22-41D, NMSA 1978, 59A-23-7.17D, NMSA 1978, 59A-46-43D and 59A-47-45.8D.