

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to 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 Prepared: 2/8/25 *Check all that apply:*
Bill Number: SB39 Original Correction
 Amendment Substitute

Sponsor: Sen Thomson **Agency Name and Code:** HCA-630
Short Title: Insurance Coverage Drugs **Number:** _____
Based on Med Necessity **Person Writing:** Keenan Ryan
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0.0	\$0.0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	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
Total	\$0.0	\$0.0	\$0.0	\$0.0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB39 amends parts of the insurance codes to add the use of off label agents, and the addition of rare diseases as the preclusion of step therapy prior authorizations. This bill adds definitions for rare disease, clarifies prior authorization actions, and off label usage. SB 39 requires medical necessity determinations be made by a health care professional from the same or similar practice that typically manage the medical condition, and requires that medical necessity determinations be automatically approved within 7 days for standard determinations and 24 hours for emergencies if a delay could jeopardize the covered person's health. SB 39 prohibits health insurers from imposing step therapy requirements before authorizing coverage for a medication approved by the FDA, or for an off label medication if the medical necessity determination was made by a health care professional from the same or similar practice specialty that typically manages the medical condition under review.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

As currently written, SB 39 reads: "a medication or a dosage of a medication that is not approved by the federal food and drug administration for a specific condition or disease". It is important to indicate that the drug must be approved by the FDA, but the indication or dosage to treat a specific condition or disease may not be approved. As currently written, the bill may be construed to require coverage of non-FDA approved medications which may contrary to federal law. The use of off-label medications is common in certain medical specialties where clinical trials are limited and where physicians/health care practitioners using their clinical judgement believe it is in the best interest of the patient.

PERFORMANCE IMPLICATIONS

There is a wide spectrum of off-label usage ranging from well-studied with widespread adoption, to limited-to-no safety or efficacy data. This bill attempts to define appropriate off-label prescribing, both through definition of off-label usage and a review of appropriateness by an equivalently trained provider. This should limit off-label usage to clinically appropriate situations.

ADMINISTRATIVE IMPLICATIONS

In order to implement this legislation HCA would need to provide clarification and promulgation of rules and policies regarding step therapy specifically as it includes off-label usage and determination of medical necessity. This may require updating the NMAC and MCO policy manual to meet these goals.

No IT impact

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB207 is similar to SB39. While the bills look to accomplish a similar goal, SB39 provides a more prescriptive review of how to accomplish these goals.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A