

LFC Requester:

Ruby Ann Equibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/24/2025

Check all that apply:

Bill Number: SB 62

Original Correction
Amendment Substitute

Sponsor: Sen. Elizabeth Stefanics and Rep. Elizabeth Thomson

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Pharmacy Benefit Manager Fees

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

The bill seeks to amend the Pharmacy Benefits Manager Regulation Act (PBMRA), 59A-61-1 NMSA. First, this bill amends PBMRA by introducing the defined terms “bona fide service fee” and “conflict of interest.” A bona fide service fee is defined as a fair value flat dollar amount received for the provision of pharmacy benefits management services. A conflict of interest is defined as any situation where a PBM receives any kind of payment for their services other than a bona fide service fee.

Section 2 of the bill amends 59-61-3(A) NMSA, adding a licensure requirement for a person that provides pharmacy benefits management services. The bill also amends subsection (C) providing that the superintendent of insurance may suspend or revoke the license of a PBM if the PBM has a conflict of interest. The bill proposes in subsection (D), that upon the revocation of the license, the PBM must conclude its affairs within the state. A failure to comply on the part of the PBM would then constitute an unfair or deceptive trade practice pursuant to the Unfair Practices Act under this bill.

The primary intended effect of this bill would be to prohibit PBMs or their affiliates from collecting a percentage of the rebates they negotiate for their health plan payor clientele.

FISCAL IMPLICATIONS

None noted.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

This bill would expand the purview of the Unfair Practices Act, therefore expanding the enforcement responsibilities of the Attorney General.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

The use of “conflict of interest” where another term or set of terms may be used may be a bit confusing and imprecise. While the term is defined in the statute, “conflict of interest” is also a phrase used colloquially with significantly different meaning, which may cause confusion here where another, more naturally applicable term or set of terms may be more intuitive.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo, in which PBMs often collect revenue not in the form of flat dollar amount fees, would continue.

AMENDMENTS

N/A