

Legislative Update February 3, 2018
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The House Appropriations and Finance Committee passed a budget (House Bill 2 & 3 Committee Substitute) on Tuesday January 30th. The bill passed the House by a vote of 65-3 the next day. That vote indicates wide bi-partisan support and a change from more contentious votes in recent years. The budget bill now sits in the Senate. Appropriations bills and budget amendments will be considered in Senate committees going forward. The Senate Finance Committee accepted budget amendments through Friday February 2nd.

One Senate budget bill physicians may be interested in is **SB 175: Tax Code Changes (Sen. Carlos Cisneros)**. This bill would reform gross receipts taxes in some areas; one being related to hospitals. According the bill's Fiscal Impact Report (FIR), gross receipts reform for hospitals would level the playing field for non-profit, for-profit, or governmental hospitals. The sponsor and supporters suggest that a portion of the funds generated by these reforms, estimated to be \$136 million in fiscal year 2019, could be used to offset the 2016 Medicaid rate cuts to providers and as a match for federal Medicaid funds. The bill currently sits in Senate Corporations and Transportation Committee waiting for a hearing date.

Healthcare-related legislation in the spotlight this week:

SB 11 Guidelines for Step Therapy Drug Coverage (Sen. Gay Kernan, Sen. Elizabeth Stefanics)

This bill received a Do Pass in Senate Public Affairs Committee on January 30th. It is scheduled for Senate Corporations and Transportation Committee on Monday February 5th.

Please contact committee members to provide your input. A synopsis of the bill is provided below.

Senate Corporations and Transportation Committee

Sen. Clemente Sanchez(D)	Phone: 986-4513	Email: clemente.sanchez@nmlegis.gov
Chair		
Sen. Benny Shendo(D)	Phone: 986-4310	Email: benny.shendo@nmlegis.gov
Vice-Chair		
Sen. Michael Padilla(D)	Phone: 986-4267	Email: michael.padilla@nmlegis.gov
Sen. Mary Kay Papen(D)	Phone: 986-4733	Email: marykay.papen@nmlegis.gov
Sen. Bill Tallman(D)	Phone: 986-4373	Email: bill.tallman@nmlegis.gov
Sen. James White(R)	Phone: 986-4395	Email: james.white@nmlegis.gov
Sen. Pat Woods(R)	Phone: 986-4393	Email: pat.woods@nmlegis.gov

This bill would require insurers to establish clinical review for “fail first” or step therapy protocols. The basics are:

- A. Clinical review criteria based on clinical practice guidelines:
 - recommend that the prescription drugs subject to step therapy protocols be taken in the specific sequence required by the step therapy protocol
 - are developed and endorsed by an interdisciplinary panel of experts (with conflict of interest provisions)
 - are based on high-quality studies, research and medical practice
 - are created pursuant to an explicit and transparent process
 - take into account the needs of atypical patient populations and diagnoses
- B. In the absence of clinical guidelines that meet the requirements above, peer-reviewed publications may be substituted.
- C. When a group health plan restricts coverage of a prescription drug for the treatment of any medical condition through the use of a step therapy protocol, an enrollee and the practitioner prescribing the prescription drug shall have access to a clear, readily accessible and convenient process to request a step therapy exception determination. A group health plan may use its existing medical exceptions process to satisfy this requirement. The process shall be made easily accessible for enrollees and practitioners on the group health plan's publicly accessible website
- D. A group health plan shall expeditiously grant an exception to the group health plan's step therapy protocol if:
 - the prescription drug that is the subject of the exception request is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient
 - the prescription drug that is the subject of the exception request is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen
 - while under the enrollee's current health coverage or previous health coverage, the enrollee has tried the prescription drug that is the subject of the exception request or another prescription drug in the same pharmacologic class or with the same mechanism of action as the prescription drug that is the subject of the exception request and that prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event
 - the prescription drug that is the subject of the exception request is not in the best interest of the patient, based on medical necessity and an explanation from the patient's prescribing practitioner as to why a drug on the plan's formulary that is

therapeutically equivalent to the prescribed drug should not be substituted for the prescribed drug

- E. Upon the granting of an exception to a group health plan's step therapy protocol, the group health plan administrator shall authorize coverage for the prescription drug that is the subject of the exception request
- F. A group health plan shall respond to an enrollee's exception request within seventy-two hours of receipt. In cases where exigent circumstances exist, a group health plan shall respond within twenty-four hours of receipt of the exception request. In the event the group health plan does not respond to an exception request within the time frames required pursuant to this subsection, the exception request shall be granted
- G. A group health plan administrator's denial of a request for an exception for step therapy protocols shall be subject to review and appeal pursuant to the Patient Protection Act
- H. The provisions of this section shall not be construed to prevent a:
 - o group health plan from requiring a patient to try a generic equivalent of a prescription drug before providing coverage for the equivalent brand-name prescription drug
 - o practitioner from prescribing a prescription drug that the practitioner has determined to be medically necessary
- I. The provisions of this section shall apply only to a group health plan delivered, issued for delivery or renewed on or after January 1, 2019

HM 9: Explore Medicaid Buy-In Plan (Rep. Deborah Armstrong)

This bill received a Do Pass on January 29th. It currently sits on the House Calendar for Monday February 5th.

This memorial would require the Legislative Health and Human Services Committee to explore the costs and benefits of offering state residents who are not eligible for Medicaid the choice of buying into a health care coverage plan administered by Medicaid.

SM 3/HM 9: Study NM Medicaid Buy-In Plans (Sen. Gerry Ortiz y Pino)

This bill received a Do Pass in Senate Rules Committee on January 29th and a Do Pass on Senate Public Affairs on February 2nd. It currently sits on the Senate Floor calendar for Monday February 5th.

This memorial would require the Legislative Health and Human Services Committee to explore the costs and benefits of offering state residents who are not eligible for Medicaid the choice of buying into a health care coverage plan administered by Medicaid.

HB 104: Rural Health Care Tax Credit Changes (Rep. Miguel Garcia)

This bill received a Do Pass in House Health and Human Services Committee on January 29th and is awaiting a hearing in House Taxation and Revenue Committee.

This bill would amend the Rural Health Care Practitioner Tax Credit to allow licensed counselors, pharmacists, and social workers to claim the credit.