

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0886
Prime Sponsor(s): Sen. Aguilar
 Rep. Ginal

Date: July 12, 2013
Bill Status: Signed into Law
Fiscal Analyst: Kirk Mlinek (303-866-2756)

TITLE: CONCERNING THE DEVELOPMENT OF A PRIOR AUTHORIZATION PROCESS TO BE USED IN OBTAINING PRIOR APPROVAL FROM CARRIERS FOR COVERAGE OF DRUG BENEFITS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Diversion Diversion from the General Fund to the Division of Insurance Cash Fund	\$8,756	
State Expenditures Cash Fund Division of Insurance Cash Fund	\$8,756	
FTE Position Change	0.1 FTE	
Effective Date: The bill was signed into law by the Governor and took effect on May 15, 2013.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The bill requires the Commissioner of Insurance (commissioner) in the Department of Regulatory Agencies (DORA) to develop by July 31, 2014, by rule, a uniform prior authorization process for insurance carriers to submit and receive requests for prior coverage approval of a drug benefit. Prior authorization is an extra step that some insurance carriers require before deciding to approve coverage of a patient's medicine. Under the prior authorization process to be developed by the commissioner, insurance carriers and pharmacy benefit management firms (carriers) will be required to:

- make the process available electronically, but must not require the prescribing provider to submit a prior authorization request electronically;
- make certain items accessible in a centralized location on their web sites;
- use evidence-based guidelines, when possible, when making prior authorization determinations;

- include certain information in its prior approval notification; and
- inform a prescribing provider that the covered person has a right to appeal the denial of a prior approval request.

The bill requires the commissioner to appoint a work group within 30 days of the bill's effective date for purposes of assisting in the development of the prior authorization process. The work group's recommendations must be made not later than 6 months after the date on which membership appointments are made. As part of the rule promulgation, the commissioner is required to develop a standardized prior authorization form that is not to exceed two pages in length. The commissioner is required to take into consideration existing forms, including those established by the federal Centers for Medicare and Medicaid Services or the Department of Health Care Policy and Financing.

Carriers are required to begin using the prior authorization process on January 1, 2015. A request for prior authorization is deemed granted if a carrier fails to use the prior authorization process or fails to respond within 2 business days to any request submitted electronically, subject to certain conditions. The deadline for nonurgent requests is 3 business days. Urgent requests must be responded to within 1 business day. Once approved, a prior authorization is valid for at least 180 days from the date of approval.

State Diversion

This bill diverts \$8,756 from the General Fund in FY 2013-14. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill will increase state expenditures by at least \$8,756 in FY 2013-14, and by an indeterminate amount in the future, as described below.

Department of Personnel and Administration. Administrative costs for the state's self-insured administrator could increase under the bill. As of this writing, the amount has not been estimated. These costs will be charged to the state through the total health premium. As a result, no appropriation is called for relative to state premium adjustments as the state's share of these costs is established in the Long Bill, as recommended through the Joint Budget Committee's common policy decisions. The fiscal note will be updated if additional information becomes available.

Department of Regulatory Agencies. **Expenditures in DORA will increase by \$8,756 for FY 2013-14 only.** Assisting the commissioner with rulemaking, staffing the work group, and developing a standardized prior authorization form requires 0.1 FTE (approximately 253 hours), comprised of multiple staff members. The fiscal note assumes that sufficient existing appropriations will pay the Department of Law for legal assistance required during the rule promulgation process. The source of funds for the increased workload under the commissioner is the Division of Insurance Cash Fund.

Department of Health Care Policy and Financing (HCPF). The bill could drive increased expenditures in the Children's Basic Health Plan (plan). The plan is modeled after basic and standard insurance plans and can be affected by changes in insurance laws. It is unknown whether any of these costs for carriers to implement the bill will be passed on to HCPF through rates. As a result, the bill does not have an immediate impact on HCPF. HCPF will use the annual budget process, if necessary, should additional resources be necessary to implement the bill.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 1.

Table 1. Expenditures Not Included Under SB13-277*	
Cost Components	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$817
Supplemental Employee Retirement Payments	15
TOTAL	\$832

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

The fiscal impact of the bill on local governments mirrors that of the potential impact on state insurance coverage. Expenditures for health plans at the local level could increase if health plan providers incur, and pass through, increased administrative costs.

State Appropriations

For FY 2013-14, the Department of Regulatory Agencies requires an appropriation of \$8,756 and 0.1 FTE from the Division of Insurance Cash Fund.

Departments Contacted

Regulatory Agencies
Public Health and Environment
Personnel
Municipalities

Health Care Policy and Financing
Law
Counties