



Legislative Council Staff

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Final Fiscal Note

Drafting Number:	LLS 21-0040	Date:	October 6, 2021
Prime Sponsors:	Rep. Michaelson Jenet; Titone Sen. Moreno	Bill Status:	Signed into Law
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Bill Topic: **INSURANCE COVERAGE MENTAL HEALTH WELLNESS EXAM**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

The bill requires that state-regulated health insurance plans provide coverage for the total cost of an annual mental health examination. It increases state expenditures and creates a General Fund diversion on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires and includes an appropriation of \$26,353 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 21-1068**

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Cash Funds	\$26,353	\$13,353
	Centrally Appropriated	\$4,477	\$4,477
	Total Expenditures	\$30,830	\$17,830
	Total FTE	0.2 FTE	0.2 FTE
Diversions	General Fund	(\$30,830)	(\$17,830)
	Cash Funds	\$30,830	\$17,830
	Net Transfer	\$0	\$0
TABOR Refund		-	-

Summary of Legislation

Under current law, health insurance carriers offering individual or small-group health benefit plans must ensure that coverage includes behavioral, mental health, and substance use disorder services, including behavioral health treatment. While some level of coverage is required under these plans, carriers are not required to provide coverage for the total cost of such services.

The bill requires that health plans provide coverage for the total cost of an annual mental health examination of up to 60 minutes. For large employers this requirement takes effect January 1, 2022; for individual and small group policies it takes effect January 1, 2023. The examination must be performed by a qualified mental health care provider, which the bill defines as any of the following:

- physician who has certification or training in psychiatry or mental or behavioral health;
- physician assistant who has training in psychiatry or mental health;
- psychologist;
- clinical social worker;
- marriage and family therapist;
- licensed professional counselor;
- addiction counselor; or
- advanced practice registered nurse, with specific training in psychiatric nursing.

In addition, the bill requires the Division of Insurance to conduct an actuarial study to determine the effects this required coverage has on premiums.

Conditionality. The coverage requirement only applies if the Commissioner of Insurance determines that the coverage does not require a state defrayal pursuant to the federal Affordable Care Act, and the federal Department of Health and Human Services confirms this determination or fails to reply.

Background

The provisions of the bill apply to health insurance plans that are subject to state regulation. There are three primary markets that are subject to state regulation: the individual, small-group, and large-group markets, with the exception of self-insured employers. About one million Coloradans receive health insurance through such plans. The bill does not apply to Medicare, Medicaid, military plans, or self-insured employer-based health plans, which are regulated by the federal government.

State Diversions

The bill diverts an estimated \$30,830 from the General Fund to the Division of Insurance Cash Fund in FY 2021-22 and \$17,830 in subsequent years for plan review in the Department of Regulatory Agencies (DORA). This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state cash fund expenditures in DORA by \$30,830 in FY 2021-22 and \$17,830 in subsequent years from the Division of Insurance Cash Fund, and may increase costs for other state agencies. These costs are shown in Table 2 and described below.

Table 2
Expenditures Under HB 21-1068

	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$13,353	\$13,353
Centrally Appropriated Costs ¹	\$4,477	\$4,477
Actuarial Contractor	\$8,000	
All-payer Claims Database	\$5,000	
Total Cost	\$30,830	\$17,830
Total FTE	0.2 FTE	0.2 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. The Division of Insurance in DORA will review filings for each health plan subject to the bill, adding about 30 minutes per review for 800 annual filings. The review ensures that the coverage meets the requirements set forth in the bill and is appropriately communicated to the policyholder. This work requires 0.2 FTE at the Rate and Financial Analyst II job class. The actuarial study will require a contractor for an estimated 20 hours at a rate of \$400 per hour. As an input into this study, data will be purchased from the all-payer claims database.

Health Care Policy and Financing. The Child Health Plan Plus (CHP+) program provides health insurance to pregnant women and children that meet the financial eligibility criteria for the program. CHP+ plans that are subject to the bill currently cover mental health visits, though there are no current requirements that the program covers the total cost of the visit. To the extent that utilization of mental health services increases, costs will increase correspondingly. Any impact on state expenditures will be addressed through the annual budget process.

State employee insurance. State employee insurance is offered through two carriers, one of which (Kaiser Permanente) is subject to state regulation and would be required to expand coverage in accordance with the bill. Any cost increase could contribute to higher insurance premiums, which would be shared by state agencies and employees. Because insurance premiums are influenced by a number of variables and the cost share between the state and employees has not been determined, the cost to the state is not estimated.

Potential new benefit mandate. This bill requires that health insurance plans cover a health benefit that may be outside of those identified as essential health benefits in the federal Affordable Care Act, which potentially increases costs to the state. Under the federal law, states may be required to cover health insurers' costs to provide newly mandated health benefits using state funds, rather than the insurer covering these costs using premiums collected from policy holders. At this time, it is unknown if the federal government will require these payments and the potential costs have not been estimated.

Centrally appropriated costs. 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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$4,477 in FY 2021-22 and future years.

Local Government

Similar to state employee insurance, to the extent that premiums increase for local government insurance plans, cost increases will be shared by local governments and employees.

Effective Date

The bill was signed into law by the Governor and took effect on July 6, 2021.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$26,353 to DORA from the Division of Insurance Cash Fund, and 0.2 FTE.

State and Local Government Contacts

Health Care Policy and Financing

Personnel

Regulatory Agencies