SB 24-054

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0335	**Date:**	February 12, 2024
Prime Sponsors:	Sen. Michaelson Jenet Rep. Brown; Mabrey	**Bill Status:**	Senate Health & Human Services
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Bill Topic: **DIABETES PREVENTION & OBESITY TREATMENT ACT**

Summary of Fiscal Impact:
☐ State Revenue ☒ State Diversion ☒ Local Government
☒ State Expenditure ☐ TABOR Refund ☐ Statutory Public Entity

The bill requires insurance plans to cover lifestyle therapy, bariatric surgery, and anti-obesity medication for the treatment of chronic obesity and pre-diabetes. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $90 million, primarily to the Department of Health Care Policy and Financing.

Fiscal Note Status: The fiscal note reflects the introduced bill. This analysis is preliminary and will be updated following further review and any additional information received.

Table 1
State Fiscal Impacts Under SB 24-054

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-
Expenditures	General Fund	$18,391,454	$41,924,575	$51,675,990
	Cash Funds	$6,147,607	$14,906,783	$18,436,991
	Federal Funds	$65,144,021	$155,370,245	$192,000,966
	Centrally Appropriated Costs	$1,886	$1,886	$1,886
	Total Expenditures	**$89,684,968**	**$212,203,489**	**$262,115,833**
	Total FTE	**0.1 FTE**	**0.1 FTE**	**0.1 FTE**
Diversions	General Fund	($9,219)	($9,219)	($9,219)
	Cash Funds	$9,219	$9,219	$9,219
	Net Diversion	**$0**	**$0**	**$0**
Other Budget	General Fund Reserve	$2,758,718	$6,288,686	$7,751,398

Summary of Legislation

The bill requires state-regulated insurance plans to cover lifestyle therapy, bariatric surgery, and U.S. Food and Drug Administration (FDA)-approved anti-obesity medication for the treatment of chronic obesity and pre-diabetes. The bill states coverage restrictions cannot be more restrictive than restrictions placed on treatments for other conditions. The bill requires the Department of Regulatory Agencies (DORA) to determine whether a state defrayal is necessary for the new coverage requirements. The requirements apply to plans issued or renewed after: a determination that a state defrayal is not necessary is confirmed by the federal Department of Health and Human Services (HHS) or confirmation has been requested and HHS has not responded within 365 days.

Likewise, the bill requires Medicaid, operated by Department of Health Care Policy and Financing (HCPF), to cover lifestyle therapy, bariatric surgery, and FDA-approved anti-obesity medication for the treatment of chronic obesity and pre-diabetes no later than January 2025. HCPF must notify members in writing about the availability of treatment and report on the conditions as part of the SMART Act. The requirements apply after federal authorization is granted.

Background

Glucagon-like peptide 1 (GLP-1) agonists can enhance the secretion of insulin. Ten different products have been approved as a diabetes treatment over the past 20 years. GLP-1 with the active ingredient semaglutide have been shown to be especially effective for weight-loss by decreasing appetite and slowing digestion. Since 2017, two semaglutide drugs have been approved for diabetes treatment: Ozempic and Rybelsus. In June 2021, a new semaglutide medication was approved for weight loss management, Wegovy. All three drugs are produced by Novo Nordisk.

Assumptions

Anti-obesity medication. This analysis assumes that a one-month supply of an approved GLP-1 anti-obesity medication currently costs around $1,154, before rebates, based on the Medicaid costs in Michigan. After rebates, the mediation costs about $650. Cost may change as supply restrictions lessen and other brands become approved for chronic obesity. For informational purposes, Ozempic and Wegovy have the same active ingredient, but only Wegovy has been approved for chronic obesity and it is currently about 60 percent more expensive than Ozempic.

This analysis assumes that over 200,000 Medicaid clients will be newly eligible for weight loss medication under the bill, based on:

- 2022 Colorado obesity rates estimated by the CDC, adjusted for the CDPHE's 2017 finding that the Medicaid population is more likely than the general population to be obese; and
- accounting for the fact that clients with diabetes are already eligible for weight-loss medications that are FDA-approved for diabetes treatment.

This analysis assumes that of that population in FY 2024-25, 18,000 clients will use the medication benefit and that the number of clients will increase to almost 38,000 by FY 2026-27, based on the following:

- implementation will start half way through FY 2024-25;
- 70 percent of obese population will seek medical assistance based on the percent of the Medicaid population that receive preventative care visits;
- 25 percent will be willing to try medication based on the percent who expressed "a lot" of interest in these medications in a recent KFF survey[1];
- on average, the medication will be used for 80% of the year based on the Medicaid continuation rate for long term treatments; and
- available supply will limit filled prescriptions to 50 percent of potential claims in FY 2024-25, with supply restrictions eliminated by FY 2026-27 This assumption is based on unfulfilled claims in 2023, taking into account recent manufacturer announcements about investment in production capacity.[2]

Actuarial Analysis

An actuarial analysis of this bill has been requested pursuant to Senate Bill 22-040. When the report is finalized, it will be available on DORA's website at the following link:

https://doi.colorado.gov/sb-22-040-actuarial-review-of-health-benefit-coverage-legislative-proposals

State Diversion

This bill diverts $9,219 from the General Fund in FY 2024-25 and ongoing. 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 expenditures in HCPF by $90 million in FY 2024-25, $212 million in FY 2025-26, and $262 million in FY 2026-27, paid largely from federal funds and also from the General Fund and the Health Care Affordability and Sustainability Cash Fund. The bill also increases expenditures in DORA by about $9,200 annually, paid from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

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[1] Alex Montero, G. S., & 2023, A. (2023, August 4). KFF Health Tracking Poll July 2023: The public's views of new prescription weight loss drugs and prescription drug costs. KFF. https://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-july-2023-the-publics-views-of-new-prescription-weight-loss-drugs-and-prescription-drug-costs/#:~:text=Just%204%25%20of%20adults%20say,any%20prescription%20weight%20loss%20drugs.

[2] Glass, R., & Foster, E. (n.d.). New demand in an old market. IQVIA. https://www.iqvia.com/locations/united-states/blogs/2023/08/new-demand-in-an-old-market

Table 2
Expenditures Under SB 24-054

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Health Care Policy and Financing			
Medication Costs	$84,817,468	$208,237,136	$258,149,479
Independent Lifestyle Therapy Costs	$1,443,552	$1,508,141	$1,508,141
MCO Operated Lifestyle Therapy Costs	$2,322,729	$2,448,994	$2,448,994
Notification Costs	$1,092,000	-	-
FTE – Personal Services	0.0 FTE	0.0 FTE	0.0 FTE
HCPF Subtotal	**$89,675,749**	**$212,194,270**	**$262,106,614**
Department of Regulatory Agencies			
Personal Services	$7,333	$7,333	$7,333
Centrally Appropriated Costs[1]	$1,886	$1,886	$1,886
FTE – Personal Services	0.1 FTE	0.1 FTE	0.1 FTE
DORA Subtotal	**$9,219**	**$9,219**	**$9,219**
Total Costs	**$89,684,968**	**$212,203,489**	**$262,115,833**
Total FTE	**0.1 FTE**	**0.1 FTE**	**0.1 FTE**

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

Department of Health Care Policy and Financing

HCPF will have costs of $90 million, including $18 million General Funds, to meet the coverage requirements of the bill in FY 2024-25, based on the assumptions above and coverage beginning January 1, 2025. As the drug shortage resolves and utilization increases, this is estimated to increase to $260 million, including $52 million in General Funds by FY 2026-27.

- **Medication costs.** The bill requires HCPF to provide Medicaid coverage for weight-loss medication to treat obesity. As outlined in the Assumptions section, 18,000 clients are estimated use the medication in FY 2024-25, increasing to 38,000 by FY 2026-27. Cost per client was estimated based on the costs in Michigan, assuming a higher utilization of non - semaglutide drugs in FY 2024-25, and accounting for the fact that there is a six-month lag between when HCPF pays full price for a drug and receives the rebate from the drug company (which reduces costs by 44 percent). See Table 3 for detail on net drug costs to Medicaid after accounting for rebates and the six-month lag in receiving rebates.

Table 3
Medication Costs

	FY 2024-25	FY 2025-26	FY 2026-27
Medication Cost (List Price)	$84,817,468	$314,816,438	$419,755,251
Drug Rebates (44 percent)	$0	($106,579,302)	($161,605,772)
Total Medication Costs	**$84,817,468**	**$208,237,136**	**$258,149,479**

- **Lifestyle therapy.** The bill requires HCPF to cover lifestyle therapy to treat obesity. This analysis assumes that HCPF will cover the National Diabetes Prevention Program (DPP) through required statewide managed care organization (MCO) coverage, similar to Pennsylvania. Costs were estimated based on Pennsylvania's experience, assuming about 6,000 annual participants. This analysis further assumes that HCPF will cover the cost of attending approved independent lifestyle therapy groups. This attendance can be in place of or in addition to participating in the DPP. Unlike the DPP, such groups are available to minors. This analysis assumes about 9,000 annual participants in independent lifestyle therapy groups.

- **Bariatric surgery.** HCPF is already compliant with the requirement to cover bariatric surgery. No additional resources are required

- **Notification costs.** The bill requires HCPF to notify members in writing about the availability of these treatments. This analysis assumes that this requires a mailed letter to all Medicaid enrollees.

- **Savings.** The CDC created a toolkit to estimate the net cost to Medicaid of programs for people with prediabetes.[3] The toolkit assumes that people with prediabetes have a 3.8 percent chance of developing diabetes each year and uses the average Medicaid costs to treat diabetes as the potential cost avoidance estimate. Based on the toolkit, a program that results in participants losing on average 10 percent[4] of their bodyweight, would result in annual savings of around $500 per participant in year 5 and about $1,000 per participant in year 10. Given the variables and the timeline, these savings are not included in the fiscal note but would be accounted for through the annual budget process as they are realized.

[3] https://nccd.cdc.gov/Toolkit/DiabetesImpact/State
[4] Additional weight-loss beyond 10 percent has an indeterminate effect on health

Department of Regulatory Agencies

Under the federal Affordable Care Act, if a state creates a new health benefit mandate on health insurers that is not an essential health benefit as specified in federal law, the state must pay insurers' costs in covering the new benefit (known as state defrayal). Under the bill, DORA will have costs to make its determination on whether the benefit added by this bill requires state defrayal and to submit this decision to the federal government for its confirmation and approval. If federal approval is not given, the new benefit requirements for private health insurers will not be enforced. To oversee this defrayal process, as well as ongoing oversight of regulated insurers, DORA requires 0.1 FTE. This includes salary, based on an assumed September 2024 start date. Legal service costs will also minimally increase.

State Employee Insurance

It is assumed that both state employee insurance providers will be required to comply with the coverage requirement in the bill. Any cost increase to these insurers 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 for future fiscal years, a cost to the state is not 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 shown in Table 2.

Local Government

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

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires the following appropriations

- $89,675,749 million to the Department of Health Care Policy and Financing, including:
    - $18,391,454 from the General Fund;
    - $6,140,274 from the Health Care Affordability and Sustainability Cash Fund; and
    - $65,144,021 from federal funds.
- $7,333 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies, and 0.1 FTE.

State and Local Government Contacts

Health Care Policy and Financing Regulatory Agencies