



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 9, 2024)

Drafting Number:	LLS 24-0335	Date:	May 1, 2024
Prime Sponsors:	Sen. Michaelson Jenet Rep. Brown; Mabrey	Bill Status:	House Health & Human Services
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Bill Topic: DIABETES PREVENTION & OBESITY TREATMENT ACT

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> State Diversion	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> 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. These treatments under Medicaid must be provided within existing appropriations (see Technical Note section). The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the fiscal note estimates that the bill requires an appropriation of \$86.1 million, primarily to the Department of Health Care Policy and Financing. No appropriation is included.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

**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	\$17,699,040	\$39,480,409	\$48,786,197
	Cash Funds	\$5,894,459	\$14,013,190	\$17,380,476
	Federal Funds	\$62,524,117	\$146,122,186	\$181,066,774
	Centrally Appropriated	\$1,886	\$1,886	\$1,886
	Total Expenditures	\$86,119,502	\$199,617,672	\$247,235,333
	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 Impacts	General Fund Reserve	\$2,654,856	\$5,922,061	\$7,317,929

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. The bill requires HCPF to meet these requirements within existing appropriations.

Background

Anti-obesity medications and approved uses. 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. In March 2024, Wegovy was approved for reducing the risk of major cardiovascular events in patients with a history of heart disease.

Actuarial analysis. An actuarial analysis of this bill proposal was conducted by an independent contractor, per the requirements of Senate Bill 22-040. The report may be obtained in its entirety on the [Division of Insurance website](#).

Assumptions

Medication cost. 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 medication 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.

Eligibility and utilization. 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, about 17,000 clients will use the medication benefit and that the number of clients will increase to almost 36,000 by FY 2026-27, based on the following:

- implementation will start halfway 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 survey¹;
- on average, the medication will be used for 80 percent 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

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 \$86 million in FY 2024-25, \$200 million in FY 2025-26, and \$247 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.

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 (see Table 3 for detail)	\$81,252,001	\$195,651,318	\$243,268,979
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	-	-
HCPF Subtotal	\$86,110,283	\$199,608,453	\$247,226,114
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	\$86,119,502	\$199,617,672	\$247,235,333
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 \$86 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 \$247 million, including \$49 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, about 17,000 clients are estimated use the medication in FY 2024-25, increasing to about 36,000 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 in out years 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)	\$81,252,001	\$296,669,486	\$395,559,315
Drug Rebates (44 percent)	-	(\$101,018,168)	(\$152,290,336)
Total Medication Costs	\$81,252,001	\$195,651,318	\$243,268,979

- **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 percent⁴ 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.

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,

³ <https://nccd.cdc.gov/Toolkit/DiabetesImpact/State>

⁴ Additional weight-loss beyond 10 percent has an indeterminate effect on health

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.

Technical Note

The bill instructs HCPF to implement the new Medicaid benefits required by the bill within existing appropriations. Medicaid is an entitlement program which is required by other state and federal laws to provide covered services. HCPF will be unable to provide services under the bill without additional funding. Without additional funding, both the Joint Budget Committee Staff and Legislative Council Staff project that HCPF will either not implement the bill or will overexpend its existing appropriation to the extent that it has overexpenditure authority. This will result in the need for a future increase in appropriations through the annual budget process, likely through a supplemental appropriation bill. For this reason, the fiscal note continues to show the estimated cost of covering weight loss medication under Medicaid.

Effective Date

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

State Appropriations

Currently, the bill does not include an appropriation and instructs HCPF to cover treatments under the bill within existing appropriations. However, based on this fiscal note estimate, the bill requires the following appropriations for FY 2024-25:

- \$86,110,283 million to the Department of Health Care Policy and Financing, including:
 - \$17,699,040 from the General Fund;
 - \$5,887,126 from the Health Care Affordability and Sustainability Cash Fund; and
 - \$62,524,117 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

Personnel

Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).