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Fiscal Note

Drafting Number:	LLS 23-0532	Date:	March 14, 2023
Prime Sponsors:	Sen. Moreno; Cutter Rep. Michaelson Jenet; Garcia	Bill Status:	Senate Health & Human Services
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Bill Topic: **INCREASING ACCESS TO REPRODUCTIVE HEALTH CARE**

Summary of Fiscal Impact:

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

The bill requires health insurers and Medicaid to provide additional services to beneficiaries at no cost, and allows minors to independently enroll in Medicaid for reproductive health care coverage. It increases state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$2.9 million to multiple state agencies.

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 23-189

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	
Expenditures	General Fund	at least \$2,862,314	at least \$805,384	at least \$190,000
	Cash Funds	\$67,627	\$29,322	\$29,322
	Centrally Approp.	\$83,492	\$88,045	\$7,153
	Total Expenditures	at least \$3,013,433	at least \$922,751	at least \$226,475
	Total FTE	4.3 FTE	4.4 FTE	0.4 FTE
Diversions	General Fund	(\$76,601)	(\$36,475)	(\$36,475)
	Cash Funds	\$76,601	\$36,475	\$36,475
	Net Diversion	\$0	\$0	\$0
Other Budget	GF Reserve	\$429,347	\$120,808	\$28,500

Summary of Legislation

The bill makes multiple changes to reproductive health care coverage requirements, as outlined below.

Women's preventive health. The bill adds the Women's Preventive Services Guidelines of the Health Resources and Services Administration in the U.S. Department of Health and Human Services (HHS) to the mandatory preventive health care services coverage for health benefit plans.

HIV, sexually transmitted infections, and sterilization. The bill requires that mandatory preventive health care services cover counseling, prevention, and screening for sexually transmitted infections include HIV prevention drugs and related services.

Carriers are prohibited from imposing deductibles, copayments, coinsurance, annual or lifetime maximum benefits, or other cost sharing on coverage for the treatment of a sexually transmitted infection; or sterilization services, which coverage must be provided regardless of the covered person's gender.

Insurance carriers and Medicaid are prohibited from requiring a covered person to undergo step therapy or to receive prior authorization before a health care provider may prescribe or dispense a medication for the treatment of HIV.

Abortion care. The bill requires large employer plans, as of January 1, 2025, to provide coverage for the total cost of abortion care without policy deductibles, copayments, or coinsurance. Individual and small group plans must provide this coverage if the federal HHS confirms the state's determination that the coverage is not subject to state defrayal pursuant to federal law. To the extent required by binding federal jurisprudence, employers are exempted from providing coverage if providing coverage conflicts with the employer's sincerely held religious beliefs.

The bill also requires Medicaid's nonemergency medical transportation services to include expenses for transportation to abortion services.

Minor contraception. With the minor's consent, a health care provider acting within the scope of the health care provider's license, certificate, or registration may furnish contraceptive procedures, supplies, or information to the minor without notification to or the consent of the minor's parent or parents, legal guardian, or any other person having custody of or decision-making responsibility for the minor.

Minor enrollment in Medicaid. The bill expands the reproductive health care program administered by the Department of Health Care Policy and Financing (HCPF) to include additional family planning services and family-planning-related services and allow individuals under 19 years of age to apply for and enroll themselves in the program.

Provider reimbursement. HCPF must reimburse licensed health care providers for family planning and related services provided to a minor. The bill creates a new cash fund for this purpose, subject to annual appropriations by the General Assembly.

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 at the following link: <https://doi.colorado.gov/sb-22-040-actuarial-review-of-health-benefit-coverage-legislative-proposals>

State Diversion

This bill diverts \$77,000 in FY 2023-24 and \$37,000 each year thereafter from the General Fund. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which are funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state expenditures in HCPF and DORA by the amounts shown in Table 2 below. Impacts to other agencies are discussed below. All cost estimates are preliminary and will be updated in a revised fiscal note.

**Table 2
 Expenditures Under SB 23-189**

	FY 2023-24	FY 2024-25	FY 2025-26
Department of Health Care Policy and Financing			
Personal Services	\$360,234	\$392,984	-
Operating Expenses	\$5,400	\$5,400	-
Capital Outlay Costs	\$26,680	-	-
IT Systems	\$2,470,000	\$407,000	\$190,000
Service Costs	not estimated	not estimated	not estimated
Provider Reimbursement	not estimated	not estimated	not estimated
Centrally Appropriated Costs ¹	\$74,518	\$80,892	-
FTE – Personal Services	3.7 FTE	4.0 FTE	-
HCPF Subtotal	\$2,936,832	\$886,276	\$190,000

**Table 2
 Expenditures Under SB 23-189 (Cont.)**

	FY 2023-24	FY 2024-25	FY 2025-26
Division of Insurance, DORA			
Personal Services	\$37,019	\$29,322	\$29,322
Operating Expenses	\$675	-	-
Capital Outlay Costs	\$6,670	-	-
Legal Services	\$23,263	-	-
Centrally Appropriated Costs ¹	\$8,974	\$7,153	\$7,153
FTE – Personal Services	0.5 FTE	0.4 FTE	0.4 FTE
FTE – Legal Services	0.1 FTE	-	-
DOI Subtotal	\$76,601	\$36,475	\$36,475
Total	\$3,013,433	\$922,751	\$226,475
Total FTE	4.3 FTE	4.4 FTE	0.4 FTE

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

Department of Health Care Policy and Financing (HCPF)

The bill increases costs in HCPF in the following areas to implement the bill: staff, computer programming, service costs, and provider reimbursement. HCPF cannot use federal matching funds for the work associated with creating a program for individuals age 19 and under; therefore, the fiscal note assumes these costs are paid with General Fund.

Staff. HCPF requires 4.0 FTE term-limited staff to implement the computer programming changes required under the bill, which are expected to take two years. Standard operating and capital outlay costs are included, and costs account for the General Fund pay date shift.

Computer programming. HCPF's systems must be reprogrammed for the bill's eligibility requirements. Work includes system analysis, development, design, and testing in the Colorado Benefits Management System (CBMS), the Program Eligibility and Application Kit (PEAK), the Medicaid Management Information System (MMIS), and the Pharmacy Benefit Management System (PBMS). Cost estimates are preliminary.

Service costs. Medical services costs will increase to provide coverage to individuals under age 19 for family planning and family planning-related services with eligibility determined based on the individual's income, regardless of household income. These service costs have not been estimated. As a proxy, the Department of Public Health and Environment's Family Planning Program received an appropriation of \$8.3 million in FY 2022-23 for the purchase of family planning services.

For existing beneficiaries, using recent Medicaid benefit expansion programs as a proxy, the fiscal note assumes that family planning-related services do not require the need for additional medical services appropriations, as additional spending is offset by savings from fewer pregnancies.

Provider reimbursement. HCPF is required to reimburse licensed health care providers for family planning services and family-planning-related services provided to a minor from a newly created cash fund. The fiscal note has not estimated this impact.

Non-Emergent Medical Transportation (NEMT) services. Currently, members who need transportation to covered services, including covered abortion procedures, can utilize the NEMT benefit. The bill clarifies that this spending is not precluded by the state's constitutional ban on public funding of abortion.

Utilization management. There is no impact from the prohibition of utilization management for prescription drugs prescribed for the treatment or prevention of HIV, as this is current HCPF practice. However, this provision may increase future costs by limiting HCPF from establishing utilization management criteria in the future if more expensive drugs enter the market and are not proven to be safer or more effective than a less expensive HIV drug.

Division of Insurance, DORA

The DOI requires 0.4 FTE Rate and Financial Analyst to review each rate and form filing subject to the bill's requirements to ensure compliance. In addition, in FY 2023-24 only, the DOI requires 0.1 FTE policy advisor and 220 hours of legal services to perform initial rulemaking, draft regulations and guidance for insurers, and to research and draft a letter to the federal HHS regarding state defrayal. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.

Department of Personnel and Administration

The bill's health care service requirements will impact the state's costs for employee health insurance. Per the actuarial analysis cited above, insurance costs may increase by up to 0.04 percent overall. Costs will be borne by enrolled employees for the first plan year, and then become a premium cost shared by the state and employee in future years addressed through the Total Compensation analysis included in the annual budget process.

Department of Law

The fiscal note assumes compliance with state and federal restrictions related to abortion funding. If the state is required to defend its position, litigation costs will be requested through the annual budget process.

Judicial Department

Any impact to the trial courts is expected to be minimal, as the fiscal note assumes that most enforcement activity will be handled administratively by DORA.

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.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

Similar to the state impact above, costs for local governments for employee insurance may increase. The exact impact will vary by jurisdiction depending on the types of coverage currently offered and the percent of premiums paid by local governments as an employer.

Technical Note

HCPF's computer programming requirements will require more time than is afforded in the bill's current timeframes.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$2,929,941, including:

- \$2,862,314 from the General Fund to the Department of Health Care Policy and Financing with 3.7 FTE; and
- \$67,627 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies with 0.5 FTE, of which \$23,263 is reappropriated to the Department of Law with an additional 0.1 FTE.

State and Local Government Contacts

Information Technology
Law
Regulatory Agencies

Judicial
Personnel

Health Care Policy and Financing
Public Health and Environment