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FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/09

SPONSOR Ortiz y Pino LAST UPDATED 2/6/09 HB _____

SHORT TITLE Legal Guardian Eligibility Changes SB 137/aSPAC

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None, but see Fiscal Implications section		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Human Services Department (HSD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee 137 (SPAC) amendment changes the effective date from August 1, 2010 to August 1, 2009.

Synopsis of Original Bill

Senate Bill 137 amends the New Mexico Works Act and the Education Works Act to strike legal guardian from the definition of parent for constructing the eligible Temporary Assistance for Needy Families (TANF) and Education Works Program (EWP) cash assistance benefit groups. The bill further amends the Acts to give the Human Services Department some flexibility in determining eligibility based on availability state and federal funds.

FISCAL IMPLICATIONS

By striking “legal guardian” from the definition of parent the bill makes legal guardians optional members when establishing TANF cash assistance benefits. Currently, because legal guardians are defined as parents, their income is counted in determining eligibility for TANF cash assistance for the child.

By amending the definition, HSD estimates that the demand for TANF cash assistance could grow by about \$4.5 million if all eligible households decide to receive cash assistance benefits for the child only. The impact could rise to \$10 million a year if all eligible households decide to receive cash assistance benefits for the entire household. (This estimation is based on the 2007 American Community Survey of the number of households below 100% FPL in which grandchildren live with grandparents and where the grandparent is responsible for the grandchild. This estimate includes grandparents only and does not include any other relative, such as aunt, uncle, etc., within the fifth degree of relationship.)

TANF cash assistance is funded from the TANF block grant and is appropriated by the Legislature.

The same change in definition in the Education Works Program may also have some fiscal impact. HSD indicates that the Education Works Program operates solely on the allocation of state general fund dollars. An increase in the allocation amount would need to be increased to allow for the exclusion of these benefit group members.

The increase in the uptake of the TANF and EWP cash assistance is difficult to estimate. To mitigate a possible rapid increase in the need for cash assistance by this change, the bill allows the Human Services Department some flexibility in determining eligibility based on the availability of state and federal funds.

HSD also notes that the potential increase in caseload could also affect the number of Food Stamp and Medicaid households applying for benefits.

SIGNIFICANT ISSUES

HSD provided the following comment:

Currently, when determining TANF cash assistance eligibility adult relative caretakers such as grandparents, aunts, uncles etc. are considered to be an optional member, thus TANF cash assistance benefits may be determined based solely on the dependent child's needs. Amending the NMWA definition of parent to strike legal guardian and their income from the benefit group allows the household to receive cash assistance benefits for the child only. The proposed amendment to SB 137 would allow legal guardians access to the same cash assistance benefit as grandparents and other relatives within the fifth degree of relationship. The proposed amendment would encourage relative caretakers within the fifth degree of relationship to pursue legal guardianship and help equalize the eligibility standard.

The Education Works Program operates solely on the allocation of state general fund dollars. An increase in the allocation amount would need to be increased to allow for the exclusion of these benefit group members.

The bill provides significant authority to HSD in setting eligibility criteria for legal guardians.

PERFORMANCE IMPLICATIONS

According to HSD, adult members who are included in the benefit group are also included in the TANF participation rate. Situations where an adult member is exempt from participation will have a negative impact on the federal participation rate. The TANF block grant may face sanctions for failure to meet work participation rates. In addition, when any adult relative/caretaker receives public assistance benefits, they automatically receive CSED services to pursue support from the parents of the children.

TECHNICAL ISSUES

HSD noted the following technical issue:

SB 137 amends Subparagraph F of Section 27-2B-7 NMSA 1978. The amendment language striking “the effective date of this bill” to “July 27, 2007” gives the implication that the excess hours disregard only applied during the timeframe from July 27, 2007 through June 30, 2008, when in fact it has been in place since the 1990’s. An alternative to amending the language is to strike this Subparagraph entirely as this disregard is no longer applicable. The Transition Bonus Program, “the employment retention and advancement program” became law as of July 1, 2008 replacing the excess hours disregard

BE/mc:mt