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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/09

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Behavioral Health Direct Contracts SB 238

ANALYST Earnest

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$18,050.0*	\$18,050.0*	\$36,100.0*	Recurring	General Fund and Federal Matching Funds

(Parenthesis () Indicate Expenditure Decreases)

*** See Fiscal and Administrative Implication sections**

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Department of Health (DOH)

Children, Youth and Families Department (CYFD)

Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Bill 238 amends section 9-7-6.4 NMSA 1978 to allow the interagency behavioral health purchasing collaborative to contract directly with services providers instead of a managed care organization for statewide behavioral health services.

FISCAL IMPLICATIONS

The collaborative agencies argue that the bill would require the hiring of about 190 qualified staff and add substantial resources to comply with bill. “The estimated administrative costs are approximately \$40.5 million. This reflects current non-service costs for the Medicaid program plus additional costs due to the loss of economies of scale that a contractor can achieve but the state cannot. It also includes non-service costs of the other agencies.” The bill would require the collaborative to directly assume all of statewide entity’s responsibilities. The collaborative’s member agencies do not currently have the experience, staff or structure to perform such duties.

HSD also estimates IT costs and the loss of revenue to the general fund of about \$10 million, currently paid by the statewide entity in premium taxes, generated by Medicaid capitation payments to the statewide entity.

The principal task of the collaborative is to oversee and manage a more than \$400 million contract with a statewide entity that provides a single statewide provider network and coordinates behavioral health services. For FY09, the total budget, including federal funds, for behavioral health collaborative agencies is \$424.6 million, of which \$323.4 million comes through Medicaid. The total general fund appropriated for FY09 is \$177.6 million, with about \$95 million for Medicaid matching funds.

The state pays the statewide entity about \$49 million per year for administrative expenses, most of which is paid with state and federal funds through the Medicaid managed care programs.

With regard to the IT requirements, HSD states:

The IT implications associated with the changes in SB238 would be significant and costly. The costs associated with this purchase would be well into the millions. The type of system that would be needed would be something similar or a combination of what a Managed Care Organization, a Behavioral Health Organization and a behavioral health provider would have. In addition to a claims management system, the system the Collaborative would need would require several modules or components such as financial, provider, enrollment, eligibility, reporting, encounter, etc. The initial work to develop the RFP would require a significant amount of work and time for Collaborative staff. This same level of work or more would be needed throughout the procurement process and into the contract negotiation period. Depending on the approach, the Collaborative could purchase a system managed by a vendor or could purchase the system that would then be managed by Collaborative staff. Either approach would require additional State IT staff. Without an appropriation for the purchase of the IT system and for staff needed to manage the system, it would be impossible for the Collaborative to manage the work that is described in this bill.

SIGNIFICANT ISSUES

The Legislature created the Behavioral Health Collaborative in 2004 to develop and coordinate a single statewide behavioral health system. Consisting of 15 state agencies and commissions and the Governor's office (17 members), the collaborative was designed to address long-standing problems in the delivery of mental health services:

- Insufficient access to evidence-based care;
- Service delivery through a confusing array of uncoordinated public and private agencies and providers; and
- Emphases on “managing” people’s problems rather than helping them adapt and lead productive lives.

This bill leaves the collaborative in place but changes the system in which behavioral health services are provided.

ValueOptions NM has served as the statewide entity, and OptumHealth NM, a subsidiary of United Healthcare, was awarded the contract for FY10-FY13. Spending through the contract has increased by more than 40 percent since FY06 while individuals served grew by about 7 percent. Clients and providers have raised concerns about denial rates and delayed repayments. Functioning as the oversight body, the Collaborative has worked to address these issues through sanctions of and better reporting by the statewide entity.

HSD raised the following concerns about the proposed bill:

By eliminating the ability to contract with a statewide entity, the bill risks the elimination of many functions and programs which may not be replaced. The contracted statewide entity, which is funded through multiple state agencies and federal programs, does more than simply contract with direct service providers and pay claims. There are additional complex and valuable functions that were not possible prior to the implementation of the current system. The statewide entity provides specialized care coordination, utilization management, disease management, and a number of other consumer-oriented and quality-oriented functions. SB238 would lead to the dismantling of these functions and would necessitate an attempt by the state to implement these functions and programs across multiple agencies.

Prior to the first statewide entity contract, the same family may have had to visit multiple providers and complete duplicative forms to access services. The same community based provider may have had 7 contracts with multiple state agencies providing essentially the same services, many times to the same clients. SB238 would require a significant change in direction that risks re-creating the very fragmentation, duplication and waste in service delivery that the Collaborative was formed to address.

The elimination of the contracted statewide entity may lead to the elimination of valuable data necessary for efficient behavioral health services. The use of a single contracted statewide entity has enabled the state, for the first time, to gain an understanding of behavioral health needs and services on a statewide basis. Prior to contracting with a statewide entity, there was a great deal of duplication of effort and it was often impossible to get an accurate picture of who was receiving what services from which providers through which funding streams. The state can now get reports and information showing unduplicated numbers of consumers and services provided. This data improves the ability of the Collaborative to make correct decisions and good policy.

The Division of Vocational Rehabilitation (DVR) is concerned that by replacing ‘rehabilitation’ with ‘education’ in Section 1(A), DVR would be removed from the collaborative. According to DVR, “the agency represents the interests of placing persons with disabilities, including mental illness, into employment. DVR is a division of the Public Education Department, but should also be named specifically because of this function. As part of the continuum of mental health services, employment is a key component to wellness, independence and integration.”

Of the 8,893 persons served by DVR during fiscal year 2008, 2,043 or 22.7% of those were individuals with mental illness. This is considered to be an important population served by the Division, and it is expected that this population will only increase in size in the years to come. The importance of vocational rehabilitation services is also

highlighted by the fact that not only do consumers benefit from employment, but they also contribute to the tax base. Persons with mental illness have also experienced a long standing history of underemployment.

ADMINISTRATIVE IMPLICATIONS

The collaborative agencies estimated significant administrative costs to implement the proposed statutory change, as noted above and below. It is worth noting, however, that with the implementation of the collaborative and the hiring of the statewide entity in FY06, there is little evidence the state realized any administrative savings in moving from the previous behavioral health delivery system to the managed care environment. There were no reductions in FTE and appropriations for state administration. The state's administrative capacity may be largely intact.

The collaborative agencies provided the following analysis of the administrative impacts:

SB238 requires a return to the behavioral health delivery system that was in operation prior to fiscal year 2006 or the creation of a new, publicly run network. The former was unsatisfactory for a number of reasons—uncoordinated and duplicative services, funding streams stuck in individual silos, unmet needs, and wide service gaps—that led to the creation of the Collaborative and the use of the statewide entity contract. The creation of a new state-run delivery system would be extremely costly and labor intensive as the Collaborative or its individual agencies would need to hire the staff, build the systems, and enter into the contracts that are currently part of the statewide entity's operations.

For the state to take on care coordination and utilization management alone would mean either new multi-million dollar contracts with other outside entities or the hiring of dozens of new employees along with massive IT system changes. Likewise, the state would need to implement its own quality initiatives, disease management programs, provider network support services, consumer services and much more in order to deliver behavioral health services at the same level as they are delivered currently.

As mentioned above, the state can now get reports, data, and information showing unduplicated numbers of consumers and services provided. Duplication of the complex Management Information Systems managed by the statewide entity would require dozens of additional FTE and the acquisition of new systems not currently present in state government.

As many as 190 new FTE would be required to produce the same results produced with the statewide entity contract. A complex transition period and implementation of new systems would create additional costs.

OTHER SUBSTANTIVE ISSUES

According to HSD:

The Medicaid managed care program is operating under a waiver from the Centers for Medicare and Medicaid Services (CMS), the federal agency that oversees much of the Medicaid program. CMS has expressed satisfaction with the way the program is currently operating. SB238 would mean either returning to an all fee-for-service carve-out program

for Medicaid behavioral health services or the submission of a brand new waiver to CMS. The production, submission, and approval process for such a waiver could take up to several years. In the meantime, services would return to the silos of the past and would be delivered in an uncoordinated and unmanaged fashion. Providers would continue to get paid for claims submitted, but the network, the consumers, the state, and other stakeholders would lose the value added by having a single statewide entity.

New Mexico is leading the way in behavioral health system change. Our structure is spreading to other states through “transformation grants” from the federal Substance Abuse and Mental Health Services Administration. New Mexico’s work with a statewide entity, blending and braiding of multiple funding sources and innovative projects to improve the delivery of services are models for other states, all of whom are carefully monitoring New Mexico’s changes. Outside bodies are evaluating our efforts; other states are seeking our advice on transformation, on contract management, and on outcomes for the New Mexicans the Collaborative serves.

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