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FISCAL IMPACT REPORT



SPONSOR: Lopez DATE TYPED: 2/08/02 HB _____

SHORT TITLE: Drug Treatment for Convicted Offenders SB 129/aSFC

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			\$150.0	Recurring	TANF Block Grant
			\$0.1 See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 0011

SOURCES OF INFORMATION

Responses Received

Department of Health (DOH)
 Human Services Department (HSD)
 State Department of Education (SDE)
 Public Defenders Department (PDD)
 NM Corrections Department (NMCD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance amendment strikes language requiring convicted drug offenders to submit to substance abuse assessment and, at the discretion of the Human Services Department, receive drug treatment services as a condition of eligibility for cash assistance or services. The amendment change reflects the language in HB 11.

Synopsis of Original Bill

Senate Bill 129 amends the New Mexico Works (NMW) Act Section 27-2B-11-A(9), NMSA 1978. It deletes the five-year prohibition against persons convicted of a drug related felony from receiving

TANF (Temporary Assistance to Needy Families) under the New Mexico Works Act. SB 129 expands benefit group eligibility under the NM WORKS ACT to these individuals. If approved for TANF, these individuals may also be eligible for Medicaid (see below).

A new provision of the federal Personal Responsibility and Work Opportunity Act of 1996, 21 U.S.C. Section 862a(d)(1)(A), allows a State to exempt all persons domiciled in that State from the application of 21 U.S.C. Section 862(a), the general denial of assistance and benefits for drug-related convictions.

Significant Issues

The language that would be amended by SB 129 falls under the TANF/cash assistance section of the statute. The language in the title of the bill refers to “certain benefits” instead of “cash benefits”. Presumably, the sponsor of the bill, by referring to certain benefits, includes cash assistance and in some cases Medicaid eligibility to convicted drug offenders. HSD notes that the Medicaid Eligibility section of the statute would not be amended. The department points out that the current language in the Medicaid Eligibility section of the Act would not automatically provide for Medicaid eligibility if this bill should pass. Language in this section provides that for the Medicaid category JUL Medicaid, “the income eligibility criteria shall be the same as the income eligibility criteria set forth in the New Mexico Works Act”. Thus, being a member of the cash assistance benefit group would not result in automatic Medicaid eligibility. However, HSD is projecting an increase in Medicaid costs (see fiscal implications below).

SB 129 requires convicted drug offenders to submit to substance abuse assessment and, at the discretion of the Human Services Department, receive drug treatment services as a condition of eligibility for cash assistance or services.

Twenty-nine states have currently opted to waive this limitation on benefits as provided in 21 U.S.C. Section 862a(d)(1)(A). Ensuring benefits for persons convicted of drug-related offenses is often important to individuals transitioning back into the community and remaining in drug treatment programs.

PERFORMANCE IMPLICATIONS

One of the performance measures of the Medical Assistance Division (MAD) is the number of individuals enrolled in Medicaid. SB 129 will increase the number of individuals eligible for Medicaid if a regulation change is made.

FISCAL IMPLICATIONS

This bill does not provide for an appropriation. HSD believes that nearly 200 individuals could potentially become eligible for Medicaid and enroll at an additional cost of over \$180.0 to the general fund and a total of \$720.0 per year (this total includes both state and federal dollars). The cost would only occur if HSD changed its Medicaid policy through regulation.

Enactment of SB 129 would make approximately 100 persons currently living in households already receiving benefits eligible for NMW. A few additional families might choose to apply if the eligibility process were simplified. The additional cost for the TANF program will be approximately \$150.0.

ADMINISTRATIVE IMPLICATIONS

HSD would have to go through the usual administrative process required to revise or implement TANF/ Medicaid eligibility, including but not limited to promulgation of regulations, revision of the state plan, worker training and outreach. Implementation of such changes takes a minimum of 90-120 days.

NMCD reports that in both the short term and the long term, this bill could result in a decrease in the administrative burden upon probation and parole officers, as well as prison personnel if the availability of Medicaid benefits/substance abuse services results in a lower recidivism rate; thereby reducing the rate of growth in prison population as well as Probation and Parole caseloads.

RELATIONSHIP

SB 129 relates to HB 11, which would change current law in the same manner as SB 129. However, SB 129 has a significant additional provision requiring convicted drug offenders to submit to substance abuse assessment and, at the discretion of the Human Services Department, receive drug treatment services as a condition of eligibility for cash assistance or services.

TECHNICAL ISSUES

As stated in “Significant Issues” above, the amendment of the language in the cash assistance section of the New Mexico Works Act would not automatically confer Medicaid benefits on convicted drug offenders. Nonetheless, it appears from department estimates that a majority of these individuals will become eligible for Medicaid benefits through their eligibility in the TANF program.

By using the words (title of the bill) “certain benefits and services” that will be available to convicted drug offenders makes it unclear whether SB 129 in addition to cash assistance intends to eliminate the ineligibility requirement for either or both Food Stamps and Medicaid (expands the program beyond TANF /cash assistance). If it *is* intended that SB 129 eliminate one or both of these requirements, the bill should be amended to change the relevant section or sections of current law. If however, the sponsor of the bill wishes to address the eligibility for cash assistance benefits and for some individuals Medicaid eligibility (attached to cash assistance eligibility) the language suffices. A conversation with MAD staff provided additional information on Medicaid eligibility for convicted drug offenders who would be eligible for cash assistance. MAD indicated that the department would address the eligibility for Medicaid through the regulation process.

OTHER SUBSTANTIVE ISSUES

According to DOH, SB 129 supports the DOH Strategic Plan, in that it assures timely access to an effective, consumer-driven, integrated continuum of services for adults with behavioral health needs and serves clients in the least restrictive and most appropriate setting in order to stabilize and improve the functioning levels of persons being served.

Moreover, DOH notes that SB 129 also supports the Vision of Health indicators in the areas of “Breaking the cycle of substance abuse”, “Promoting healthy families”, and “Improving the quality of life of New Mexicans”. Specifically, this bill could impact reducing the drug-related death rate, and reducing other substance abuse-related indicators such as family violence and Hepatitis B rates.

The Public Defenders office notes that this bill is of particular assistance to women offenders who are caregivers and have children. PDO indicates that the women’s prison in Grants is filled with non-violent, addict mothers and by integrating these women into the community, prison costs savings of \$30,000 per year/per inmate could be realized.

The Corrections department reports that the bill could have a positive impact upon the performance of the Corrections Department’s prison programs and probation/parole programs, if the availability of Medicaid services for persons convicted of drug-related felonies results in a lower recidivism rate or a reduction in the abuse of controlled substances.

BD/ar/njw