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## FISCAL IMPACT REPORT

SPONSOR: Heaton DATE TYPED: 3/12/03 HB 402/aHBIC/aHAFC/aSPAC

SHORT TITLE: Prescription Drugs Waiver for Seniors SB \_\_\_\_\_

ANALYST: Weber

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$12,700	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
\$37,700.0			Recurring	Federal Funds

(Parenthesis ( ) Indicate Revenue Decreases)

SB 391 is almost identical

### SOURCES OF INFORMATION

Responses Received From  
Human Services Department  
Agency on Aging

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee made two amendments, both striking items in previous amendments.

1. Strike House Business and industry Committee Amendment 2 which is:  
On page 2, line 6, after "seniors" strike the remainder of the line, strike all of lines 7 and 8

- and on line 9, strike "for elderly".,
2. Strike House Appropriations and Finance Committee Amendments 1 and 3 through 5 which are:
    1. On page 1, line 12, strike "WAIVER" and insert in lieu thereof "MEDICAID PRESCRIPTION DRUG".
    3. On page 1, line 17, after "1." insert "MEDICAID".
    4. On page 1, line 17, strike "WAIVER".
    5. On page 1, line 20, strike "waiver" and insert in lieu thereof "prescription drug".

These are all changes which do not change the original intent or potential result of the original bill.

#### Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendments generally make minor language improvements. The exceptions are that the emergency clause and appropriation are eliminated.

#### Synopsis of HBIC Amendment

The House Business and Industry Committee amendment clarifies participant eligibility. On page 1, line 21, after "to" strike the remainder of the line and strike lines 22 through 25 in their entirety, and on the insert:

"persons whose incomes are less than one hundred eighty-five percent of the federal poverty level and who:

- A. are sixty-five years of age or older; or
- B. have been determined to be disabled under the criteria established under the federal social security administration's disability determination rules as applied by the department"

#### Synopsis of Original Bill

HB 402 appropriates \$150,000 from the General Fund for expenditure in Fiscal Years 2003 and 2004 to the Human Services Department to create a Medicaid Waiver program that would provide prescription drugs to seniors over the age of sixty-five with incomes of no more than one hundred eighty-five percent of the federal poverty level (FPL) and to persons who meet the state's fiscal eligibility criteria for the Developmental Disabilities (DD) Waiver and the Disabled and Elderly (D&E) Waiver. HB 402 contains an emergency clause.

The bill also provides for cost-sharing provisions, to the extent practicable, so as to minimize state general fund expenditures.

#### Significant Issues

Medical Assistance Division (MAD) coordinated the response with the State Agency on Aging. It would appear that the intent of this bill is to provide prescription drugs to individuals over age sixty-five, up to 185% federal poverty level (FPL), currently \$1,366/month and to certain disabled individuals up to 225% FPL, currently \$1,656/month.

Section 1 identifies those persons other than seniors to be served as those who meet the state's fiscal eligibility criteria for the DD and D&E Waiver programs. The fiscal eligibility for those waiver programs is approximately 225% FPL. This section does not specify that they have to meet other eligibility criteria for the waiver programs, such as level of care.

Section 2 identifies those persons eligible, other than seniors, as persons "eligible for services under the state's Medicaid waiver programs for..." This would require that the individuals also meet all other eligibility criteria, including level of care.

Many seniors over the age of sixty-five, as well as those on the DD and D&E Waivers, are Medicaid recipients and already covered for prescription drugs. This would provide prescription drugs for those individuals on the DD and D&E waiting lists.

Some individuals whom would be covered by this bill have prescription drug coverage under a private plan. The bill does not address this "crowd out" issue.

The Center for Medicare and Medicaid Services (CMS) has a model state demonstration template, "Pharmacy Plus," which allows states, through an 1115 Demonstration waiver, to expand Medicaid coverage prescription drugs to Medicare beneficiaries and other individuals with incomes up to 200% FPL. Individuals must not otherwise be eligible for the full Medicaid package.

This bill would allow coverage to individuals above 200% FPL. The review and approval process by CMS would certainly take longer than if the population addressed was under 200% FPL. This waiver would also cover persons in two categories of fiscal eligibility: those under 185% FPL and those under 225% FPL. It is unclear whether CMS would approve a waiver with two categories of fiscal eligibility.

## **FISCAL IMPLICATIONS**

The appropriation of \$150.0 contained in this bill is a non-recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2004 shall revert to the General Fund.

HSD states the bill instructs the department to use cost-sharing to minimize state general fund expenditures. The age 65 and over New Mexico population at or below 185% of poverty has been estimated at 75,000 individuals. Assuming 20% of this population has no prescription drug coverage and would enroll in this waiver program, it would cover 15,000 individuals. Approximately another 6,000 individuals might be eligible under the DD Waiver and D&E Waiver criteria for this bill, bringing the estimated total enrollment to 21,000.

Based on existing blended utilization data for these populations, an average of five prescriptions monthly at a cost of \$40 each would be expected, or \$50.4 million annually. Under Medicaid federal participation rates, the state's share of this amount would be slightly more than \$12.7 million. If a \$5 co-pay were utilized the state share drops to \$11.0 million. In the absence of a "crowd out" feature from private insurance, there is no reason all of the eligible individuals would not use prescriptions through the program with resultant higher costs.

**TECHNICAL ISSUES**

The description of eligible populations in Sections 1 and 2 are not the same. It is assumed the definition in Section 2 is correct, but the discrepancy must be addressed through amendment.

**MW/njw:sb**