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## FISCAL IMPACT REPORT

SPONSOR Beam DATE TYPED 03/11/05 HB 318  
 SHORT TITLE Medicaid Services for Brain Injuries SB \_\_\_\_\_  
 ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
\$2,000.0				Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
\$5,100.0*			Recurring	Federal Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*See Narrative

Duplicates SB 220

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Aging and Long Term Services Department (A&LTSD)

Department of Health (DOH)

Developmental Disabilities Planning Council (DDPC)

Division of Vocational Rehabilitation (DVR)

Human Services Department (HSD)

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

### SUMMARY

#### Synopsis of Bill

House Bill 318 appropriates \$2 million from the general fund to A&LTSD, in cooperation with the HSD, for the purpose of providing Medicaid waiver services to persons with brain injuries with emphasis on long-term disability services provided through home- and community-based

programs. House Bill 318 contains an emergency clause.

### Significant Issues

House Bill 318 appropriates \$2 million from the general fund to provide services to those suffering the consequences of traumatic brain injury. According to the Department of Finance and Administration (DFA), the current federal match is 71.94%. Thus the \$2 million state appropriation would be matched by \$5.1 million in federal funding.

New Mexico currently provides long-term services under four Medicaid waivers: developmental disability, disabled and elderly, AIDS, and medically fragile. However, many individuals who require services because of a traumatic brain injury do not qualify for services under these waivers. In addition, those who do qualify may face a long waiting list.

The state also provides funding through the traumatic brain injury program, but funding is limited and provided only for crisis or short-term services.

DOH, HSD, and A&LTSD are collaborating on a self-directed Medicaid waiver application called Mi Via for participants in the existing New Mexico waivers. The departments indicate that this waiver would include services for individuals with brain injury as an additional population, however DDPC notes that, without additional funding, services would not be available.

There is apparent confusion about whether or not House Bill 318 would interfere or delay the efforts of the Mi Via initiative. HSD writes that the bill would “duplicate and possibly delay efforts of the Mi Via initiative.” However, A&LTSD writes that the bill is “...not inconsistent with the Mi Via self-directed waiver...”

Both departments agree that an amendment should be made addressing the issue of the Mi Via initiative. (See “Technical Issues”)

DVR writes that individuals with brain injury who desire to return to, maintain or acquire work should be referred to DVR.

### **FISCAL IMPLICATIONS**

The appropriation of \$2 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the general fund. According to the DFA, the \$2 million state appropriation will draw down approximately \$5.1 million in federal funds.

DDPC and DVR both write that the appropriation to A&LTSD should be non-reverting as it will take some time to establish new services and funding will continue to be needed beyond FY 06.

### **ADMINISTRATIVE IMPLICATIONS**

A&LTSD would incur administrative costs to implement the program. HSD notes that these efforts may be duplicative of administrative efforts associated with the Mi Via initiative.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill duplicates Senate Bill 220.

## TECHNICAL ISSUES

A&LTSD and HSD both recommend the following amendment language:

On page 1, line 21 should be amended to read:

shall provide Medicaid services to persons with brain injuries, with an emphasis on home and community-based services, using the principles of self-determination and self-direction of services when appropriate. Subject to the limitations of federal requirements for aggregate cost effectiveness, budgets for individual waiver services shall be flexible, based on the eligible individual's functional limitations, and adequate to meet the person's needs for long-term supports and services.

In addition, A&LTSD notes that the bill does specify that services shall be waiver services.

## OTHER SUBSTANTIVE ISSUES

Individuals who have suffered traumatic brain injuries often require long term care or assistance, which, for many, is not currently available from the state. According to DDPC, many of these individuals are cared for by their families without the benefit of a coordinated and comprehensive support system. This can be a financial and emotional burden to the families. Individuals without that family support may move into nursing facilities, become homeless or encounter problems with the law.

DDPC also indicates that 25 other states have Medicaid waivers specific to brain injury and the national average cost for services provided is \$40 thousand per person per year. Using that figure, DDPC estimates that the state appropriation of \$2 million combined with federal match would be sufficient to provide services to 200-250 people per year.

A&LTSD estimates that approximately 36,000 New Mexicans are living with the consequences of traumatic brain injuries, based on estimations by the Center for Disease Control (CDC). A&LTSD also notes that CDC data shows that approximately 1,745 New Mexicans were hospitalized with traumatic brain injury in 2001.

Based on the estimate that 36,000 New Mexicans are living with traumatic brain injury, the \$2 million appropriation to serve only 200-250 clients seems to be far short of what is required. Thus, clarification is needed as to whether there will be a cap on services based on the appropriation level or if this may be construed as an open-ended entitlement.

In addition, the definition of what qualifies as "traumatic brain injury" should be clarified.

## POSSIBLE QUESTIONS

Will services be capped based on the appropriation or does this bill create an open-ended entitlement?

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