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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/03/10  
**LAST UPDATED** 02/17/10    **HB** 173/aHAFC

**SPONSOR** Heaton

**SHORT TITLE** Medicaid Nursing Facility Reimbursement Rates    **SB** \_\_\_\_\_

**ANALYST** Hanika-Ortiz/Earnest

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
		\$7,419.9	\$8,326.4	\$15,746.3	Recurring	General Fund
		\$29,679.6	\$33,305.6	\$62,985.2	Recurring	Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

### SUMMARY

#### Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment replaces the term *temporary provision* with “A new section of the Public Assistance Act is enacted to read...”; clarifies that the reimbursement rate information reflects only Medicaid rates; and makes the nursing facility cost report data and nursing facility Medicaid reimbursement rate information be collected annually, be made public, and be reported each year by December 1st to the LHHSC and LFC.

The HAFC amendment further clarifies that the Medicaid nursing facility reimbursement rate is subject to appropriation by the Legislature.

#### Synopsis of Original Bill

House Bill 173 enacts a temporary provision to direct the Human Services Department’s Medical Assistance Division (HSD/MAD) to compare current Medicaid nursing facility reimbursement rates with average Medicaid nursing facility cost report data.

HB 173 also enacts a section of the Public Assistance Act to obtain yearly analysis of Medicaid nursing facility reimbursement rates and average allowable costs.

HSD/MAD will report its analysis and any measures to address Medicaid nursing facility reimbursement rates to the interim Legislative Health and Human Services Committee (LHHSC) and the Legislative Finance Committee by December 2, 2011.

### **FISCAL IMPLICATIONS**

This bill would require HSD to set minimum reimbursement rates for nursing homes – effectively establishing a floor for managed-care organization (MCO) and nursing facility negotiations. HSD reports that the bill carries both administrative costs for additional audit functions and services costs for increased reimbursement rates to nursing homes.

According to HSD analysis, the bill would result in increased capitation payments to the MCOs operating the Coordination of Long Term Services (CoLTS) program and a rate increase to nursing home providers. Assuming that the minimum rate would be higher than the rate currently paid by MCOs, HSD finds “the average increase to nursing facility providers during the 3-year rebasing is approximately 10 to 15 percent which would become an average increase of 3 to 5 percent per year to the providers if rebasing is conducted annually as directed in HB 173. This would result in an increase of \$6.8 million to the MCOs and to nursing home providers.”

The amounts provided by HSD are the state share of the provider reimbursement costs. The federal government currently pays about 80 percent of Medicaid costs in New Mexico. The federal funds in the table are estimated based on this matching rate.

HSD also indicates that the requirement for an annual analysis of rates would result in significant increased administrative costs as the current audit agent contract would need to be amended. The current contract for the audit agent for one year is \$453.2 thousand (FY11). This amount would increase to \$1.36 million.

### **SIGNIFICANT ISSUES**

In FY09, HSD and the Aging and Long Term Care Services Department implemented the Coordination of Long Term Services (CoLTS) program. CoLTS is designed to coordinate and manage services to clients on the disabled and elderly (D&E) waiver, personal care option consumers, nursing facility residents, and clients eligible for Medicare and Medicaid (“dual eligibles”), among others. As a capitated managed care model, HSD negotiates a per-member per-month rate with the two CoLTS managed care organizations – Amerigroup and Evercare. These companies, in turn, contract and negotiate reimbursement rates with direct services providers, including nursing homes.

In December 2009, HSD reduced provider reimbursement rates by 3 percent. Nursing home rates, however, have not been reduced. HSD notes that due to the current budget situation, it is not anticipated that providers will receive Medicaid reimbursement rate increases in the future.

### **PERFORMANCE IMPLICATIONS**

HSD reports that the bill may result in changes to the State Plan that must be approved by the Centers for Medicare and Medicaid Services (CMS) and to the New Mexico Administrative Code (NMAC) as well as contract amendments with the audit agent contractor and MCOs.

## **ADMINISTRATIVE IMPLICATIONS**

HSD/MAD would perform or obtain an analysis of nursing facility reimbursement rates and audited allowable costs using a nationally recognized analysis of nursing facility reimbursement.

In addition to increasing the audit contract by about \$900 thousand, HSD estimates the need for 2 additional FTE at a cost of \$166.7 thousand per year.

DOH reports that its facilities should not be impacted since this establishes a “minimum” reimbursement rate, not a maximum.

## **OTHER SUBSTANTIVE ISSUES**

CoLTS providers reported to the LHHSC in December of 2009 that Medicaid nursing facility rates are substantially less than the actual cost of providing care.

The American Health Care Association reported in October 2008 that the average shortfall in Medicaid nursing home reimbursement was projected to be \$12.48 per Medicaid patient day in 2008. Medicare cross-subsidization of Medicaid continues to play an important role in sustaining nursing home care.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

HSD would not be required to gather data, analyze and establish a cost-based Medicaid minimum reimbursement for nursing facilities.

AHO/mew:svb