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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/21

SPONSOR Martinez LAST UPDATED 03/03/21 HB 112/aHHHC/aHSEIC

SHORT TITLE Health Benefits for Certain Non-Citizens SB _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|-------------------------------------|------|-------------------|---------------------------|-----------------------|
| Total | | Uncertain; see Fiscal Impact, below | | | Recurring | County Indigent Funds |

(Parenthesis () Indicate Expenditure Decreases)

Related to House Bill 13

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

University of New Mexico Health Sciences Center (UNMHSC)

No Response Received

Department of Health (DOH)

New Mexico Association of Counties (NMAC)

SUMMARY

Synopsis of HSEIC Amendment

The House State Government, Elections and Indian Affairs Committee amendment to House Bill 112 removes four of the 24 amendments made by the House Health and Human Services Committee and changes wording in section 4, using the terms “qualifying hospitals and hospitals with which a county contracts” as those that would be required to provide services to immigrant patients regardless of immigration status.

Synopsis of HHHHC Amendment

The House Health and Human Services Committee amendment to House Bill 112 changes language in the bill to make clear that its main focus is on assuring that health-related benefits and services for indigent patients be provided to immigrants without consideration of their

immigrant status. The title of the bill is changed to make that clear. In the definition section of the bill, “state or local health benefit” is now stated as to “include care or services for indigent persons or patients.” In Section 4-48B-8 NMSA 1978, counties, which are authorized to make agreements with agencies for care of indigent persons, must do so without regarding their immigration status.

In Section 3G and 4 of the amended bill, services, including financial assistance, are to be provided to all indigent patients without regard to their immigration status, with the added proviso that they “meet all other qualifying criteria for such services.”

Synopsis of Original Bill

House Bill 112 requires hospitals providing indigent care (county hospitals and those hospitals contracting with a county) to treat all non-citizens equally regardless of immigration status. It provides a new section of law (Section 1 of this bill) prohibiting discrimination based on immigration status “consistent with the prohibitions against discrimination set forth pursuant to New Mexico law.”

The bill amends Section 4-48B-8 NMSA 1978 to place similar requirements in the care of sick and indigent patients regardless of immigration status (Section 2 of this bill). UNM HSC points out that this section would apply to its UNM Hospital; section 3 would not, as class A counties (Bernalillo County is the only class A county in New Mexico at this point) are excluded from consideration under Section 4-48B, the Hospital Funding Act.

The bill also amends Section 27-5-6 NMSA 1978, regarding Power and Duties of Counties Relating to Indigent Care, to make the same prohibition of discrimination based on immigration status. (Section 3 of this bill). The section in statute otherwise remains unchanged.

In Section 4, the bill creates a new section within the Indigent and Hospital and County Health Care Act requiring county hospitals and those contracted with a county to provide indigent care to all county residents who are non-citizens, regardless of their immunization status.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 112.

The bill’s provisions might have a fiscal impact on county indigent funds but is difficult to estimate. Many hospitals throughout the state are already providing care to indigent patients; passage of the bill might only make more standard the provision of care across county lines.

HSD indicates that there will be no effect of this bill on Medicaid funding through that agency, as persons newly covered under this legislation would not be eligible for Medicaid, and a federal match for funds expended would not be applicable.

Funding for indigent care requires a complex mix of county, state and federal funds, including safety net funds distributed by state government. Counties assemble funds from everywhere-

federal, state, etc. Using these funding streams, some counties cover all indigent care; some do not. Under HB112, hospitals would not be required to provide more indigent care than currently provided, just to do so in a non-discriminatory way

SIGNIFICANT ISSUES

The 1986 federal Emergency Medical Treatment and Labor Act (EMTALA) requires that participating hospitals (i.e., those receiving Medicare funds) provide hospital emergency services to all persons regardless of ability to pay. If any group of New Mexico residents were forced to rely entirely on emergency departments for the bulk of their medical care, that would likely mean conditions would be more severe and costly at the time of the emergency department visit and that care would be more fragmented and less complete.

According to estimates adduced by HSD:

It is currently estimated by the Urban Institute that New Mexico has approximately 66 thousand non-citizens who are uninsured, and of these 18,000 have an income limit below 138 percent of the federal poverty level. HSD estimates that annual uncompensated care costs in New Mexico are approximately \$1,168 per uninsured individual. Therefore, the potential health care costs of all 66,000 would translate to an annual general fund cost of \$77.1 million for the counties, and \$21.8 million for just those who fall below the Medicaid eligibility threshold of 138 percent FPL. The state would not be eligible for federal matching funds to support the costs of the coverage requirements set forth in HB112.

The impact of House Bill 112's requirement for parity in treatment of all immigrant persons without consideration of immigration status would undoubtedly be much less than that, partly due to the provisions in EMTALA and also due to the fact that uncompensated care that would otherwise be provided is care that must be provided for in other ways, primarily by using other federal, state and local sources or charging higher amounts to paying patients and their insurers.

The federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), allows indigent funds to be used only for certain indigent people, generally not to many classes of immigrants. However, it also states that a state can provide all immigrants with eligibility for a program funded with state or local money if the state enacts a state law "affirmatively provid[ing] for such eligibility." This proposed state law would appear to meet that requirement.

UNM Health Sciences Center states that its "leadership has long recommended to the Community Advocates that the path around the proscriptions imposed on UNM Hospital by PRWORA could be addressed by affirmative legislation such as HB112."

The current coronavirus pandemic has hit some immigrant communities especially hard (Albuquerque Journal, December 1, 2020), and contact with infected persons undoubtedly has infected others. Had care been available to members of those communities earlier rather than later or only in emergency departments, infection among these contacts might have been avoided.

According to the American Immigration Council:

New Mexico has a sizable immigrant community, more than 70 percent of which hails from Mexico. Almost one in ten residents was born in another country, while one in nine residents is a native-born U.S. citizen with at least one immigrant parent.

Foreign-born residents are vital members of New Mexico's communities and labor force, with immigrants accounting for two-fifths of the state's fishers, farmers, and foresters, and about one-quarter of employees in the construction industry. As neighbors, business owners, taxpayers, and workers, immigrants are an integral part of New Mexico's diverse and thriving communities and make extensive contributions that benefit all.

RELATIONSHIP to House Bill 13, which provides a means by which non-citizens not eligible for Medicaid (on the basis of immigration status) would be provided emergency medical services, including services related to prevention and treatment of Covid-19 through the Human Services Department.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Undocumented immigrants in some counties could still be denied care on the basis of their documentation status, leading to conditions being further advanced when treatment was sought, and, in the case of infectious diseases, infection spreading from members of the immigrant community to other New Mexico residents.

LAC/sb/rl/al