

LFC Requester:	Eric Chenier
-----------------------	---------------------

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 01/17/2024
Bill No: HB0098

Sponsor: Rep. Elizabeth Thomson **Agency Name and Code** Commission for the Blind (60600)
Short Title: Accounts for Disabled Eligibility **Number:** _____
Person Writing Greg Trapp/Kevin Romero
Phone: (505) 476-4454 **Email** Kevin.Romero@cfb.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 98 amends ACCOUNTS FOR PERSONS WITH DISABILITIES ACT, expanding the eligibility for accounts for persons with disabilities and create an exemption to the accounts from Medicaid recovery. The bill also increases the age from twenty-six to forty-six for which the blindness or disability must have occurred.

FISCAL IMPLICATIONS

There is no appropriation contained in House Bill 98. Fiscal implications would affect the eligible account owners and the ability to access said account and exemption of Medicaid recoveries. Account holders may also be more willing who are vocational rehabilitation clients Commission for the Blind clients.

SIGNIFICANT ISSUES

Significant issues relate to the twenty-year increase of age in regards to when the blindness or disability occurred for eligibility of benefits for an applicable tax year. Second significant issue in regards to limitation of Medicaid payback from such accounts pursuant to 26 U.S.C section 529A.

PERFORMANCE IMPLICATIONS

The Commission for the Blind, as a federally funded vocational rehabilitation agency, should see a small but significant increase in the number of clients who are willing to engage in work activity due to the expanded age range and the ability to place earnings into an ABLE account. This should ultimately increase the number of Commission for the Blind Consumers who are successfully placed in competitive and integrated employment, and who ultimately exit entirely from federal benefit programs such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Medicaid, and Medicare. This also has the potential to increase the program income earned by the Commission for the Blind.

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 98 is in companionship with the Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014. It is also in companionship with the federal Rehabilitation Act and its implementing regulations at 34 CFR 361. It is also in companionship with regulations interpreting statutory/legal blindness that were adopted by the Social Security Administration on February 20, 2007, "Legal Blindness Updated Standards/Qualifications." The new standards are contained in SSA - POMS: DI 34001.012 - Special Senses and Speech - Adult - 03/24/2017.

TECHNICAL ISSUES

In 2007, the Social Security Administration adopted new regulations that reinterpreted how statutory or legal blindness would be determined, and which are set forth in SSA - POMS: DI 34001.012. The origins of "statutory blindness" can be traced back to 1862. That is when Dutch ophthalmologist Herman Snellen created the "Snellen eye chart" that allowed for the accurate and uniform measurement of visual acuity. His chart included the 20/200 acuity measurement that would eventually constitute "statutory" or "legal" blindness. Although the Snellen eye chart was developed over 160 years ago, it remains the most commonly used method for measuring visual acuity. However, modern advances in ophthalmology have resulted in the increasing use of tests that add additional measurements to the eleven levels contained in Snellen's original eye chart. This has created the potential for conflict as these newer eye charts can measure visual acuity that is between 20/100 and 20/200, an area of vision that is not measured by the Snellen eye chart. The use of modern eye charts mean that two persons with identical vision can be treated differently, depending on the vision test that their eye doctors used. For instance, Person A with 20/150 vision who went to an eye doctor who used the Snellen eye chart would be found to have 20/200 vision and be legally blind, whereas Person B with 20/150 vision who went to an eye doctor who used the Bailey-Lovie eye chart would be found to have 20/160 vision and be determined to not be legally blind. Under the new Social Security Administration rules, persons who have best corrected acuity that is worse than 20/100 should qualify as "blind," and be eligible for accounts for persons with disabilities.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the bill is not enacted, the current requirements and allowability of Medicaid recovery payments will continue to exist. This would maintain the status quo and any expected benefits would not be realized. Individuals whose disability was incurred above the age of 26 and who are receiving SSI, SSDI, Medicaid, and Medicare would also not have the incentive to engage in work or to improve their life experience through an account. The account is a valuable tool for benefits counselors, and the expansion would allow more individuals who qualify for SSI or SSDI to participate in the accounts for persons with disabilities program.

AMENDMENTS