

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 1/16/24

Bill No: HB98

Sponsor: Rep. Liz Thomson
Short Title: ACCOUNTS FOR DISABLED ELIGIBILITY

Agency Name and Code: HCA-630
Number: _____
Person Writing: Roy Burt
Phone: _____ Email: roy.burt@hsd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0.0	0.0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0.0	0.0	0.0	N/A	N/A

(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	0.0	0.0	0.0	0.0	N/A	N/A

(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 (HB) 98 references Section 529A of the Internal Revenue Code which is applicable to individuals with Achieving a Better Life Experience (ABLE) accounts. Section 1 of HB98 increases the age in the definition of an “eligible person” from twenty-six to forty-six. The age is in reference to when blindness or disability occurred for an “eligible person.” The change in the age in the definition of an “eligible person” in HB98 has an effective date of January 1, 2026.

Section 2 of HB98 is applicable to ABLE accounts, per the reference to 26 U.S.C. Section 529A. Section 2 prevents the state from seeking estate recovery payments from an account or its proceeds for benefits provided to the beneficiary of the account. Section 2 changes in HB98 have an effective date of July 1, 2024.

FISCAL IMPLICATIONS

Section 1 of HB98, which increases the age of an “eligible person” from twenty-six up to age forty-six, could potentially have some fiscal impact. Increasing the age in which blindness or disability occurred would make more individuals eligible for ABLE accounts. Then more individuals with ABLE accounts could in turn apply and become Medicaid eligible.

Section 2 of HB98 prevents the state from pursuing Medicaid estate recovery on ABLE accounts. Prohibiting the state from pursuing Medicaid estate recovery on ABLE accounts means the federal and state government would recover less Medicaid monies through its estate recovery program as Medicaid is a joint federal and state funded program.

SIGNIFICANT ISSUES

Current Medicaid policy does not exclude ABLE accounts from estate recovery. The current policy mirrors the federal definition of estate which is the “real and personal property and other assets of an individual.” ABLE accounts are included in policy as part of “other assets.”

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

If HB98 is implemented the state Medicaid agency would need to update policy to exclude ABLE accounts from estate recovery. The state Medicaid agency would need to submit a State Plan

Amendment (SPA) to the federal Centers for Medicare and Medicaid Services (CMS) requesting exclusion of ABLE accounts from estate recovery.

No IT impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

Implementing HB98 means not recovering monies from ABLE accounts for Medicaid services that were provided to Medicaid receiving individuals which reduces revenue back to the federal government for their share and the state general fund portion for those services back to New Mexico.

ALTERNATIVES

Status quo.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If Section 1 of HB98 is not implemented, then New Mexico would continue to pursue Medicaid estate recovery for ABLE accounts rather than excluding these accounts from recovery.

AMENDMENTS

N/A