LFC Requester:	Kelly Klundt

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(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}

Date Prepared: *3/11/25* *Check all that apply:*
Bill Number: *SB249* Original *x* Correction __
Amendment __ Substitute __

Sponsor: Sen. Brandt
Short Title: Medicaid Provider GRT Reimbursement

Agency Name and Code Number: HCA-630
Person Writing: Paoze Her/ Carlos Ulibarri/ Elisa
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
$0.0	$0.0	NA	NA

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
$0.0	$0.0	$0.0	NA	NA

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		$ 45.0	$ 0	$ 45.0	Non-recurring	General Fund
		$ 405.0	$ 0	$ 405.0	Non-recurring	Federal Medicaid

						Funds
Total		$ 450.0	$ 0	$ 450.0		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Not known
Duplicates/Relates to Appropriation in the General Appropriation Act: Not known

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill (SB249) would require the Medicaid program to itemize and pay the gross receipts tax (GRT) to Medicaid providers for each item that is subject to GRT.

The substitution of Senate Bill (SB249) requires the managed care organizations contracted with the Medicaid program to pay the gross receipts tax (GRT) along with documentation showing the tax paid to health care providers that rendered services to Medicaid enrollees.

FISCAL IMPLICATIONS

To comply with the itemization required by SB249, a system change would be needed in addition to training providers and the Medicaid managed care organizations (MCOs) to submit claims for reimbursement with the tax amount recorded by line. The system change would be made at a cost of $450.0 thousands at a 90% federal financial participation (FFP) rate; the general fund cost is $45.0 thousands.

The substitution specifically requires the managed care organizations (MCOs) contracted with the Medicaid program to pay and identify the GRT amount in the payments made to the health care providers. These requirements should also be applied to the Medicaid fee-for-service (FFS) claim payments. To comply with these requirements would require a system change along with providing training to providers and the MCOs. The system change would be made at a cost of $450.0 thousands at a 90% federal financial participation (FFP) rate; the general fund cost is $45.0 thousands.

SIGNIFICANT ISSUES

The Medicaid program currently factors in gross receipts tax (GRT) when calculating capitation rates for MCOs and pays providers GRT on fee-for-service (FFS) claims. However, in accordance with federal regulations, the HCA is not legally allowed to be involved in provider reimbursement negotiations between MCOs and Medicaid providers who are subject to collecting and remitting the GRT to the State. The MCOs' contractual obligations regarding GRT are described in Performance Implications, below.

For most provider types and services, the Medicaid paid amount includes GRT but this amount is

not identified separately on the claim. The GRT is generally calculated and remitted to providers at the header paid amount. The itemization required by SB249 could be challenging and complex to achieve for Mi Via providers and institutional services, e.g., hospital services (reimbursed based on diagnosis related group (DRG)), and nursing facilities and other providers (reimbursed on a per diem).

It is likely that the Medicaid MCOs would also have to implement changes to their IT billing systems in order to comply with the requirements of this bill.

The Medicaid MCO program currently includes gross receipts tax (GRT) in the capitation rates paid to MCOs. However, in accordance with federal regulations, the Medicaid program is not legally allowed to be involved in provider reimbursement negotiations between MCOs and health care providers who are subject to collecting and remitting the GRT to the State. Also, it is likely that the Medicaid MCOs would also have to implement changes to their IT billing systems in order to comply with the requirements of this bill. The MCOs' contractual obligations regarding GRT are described in Performance Implications, below.

The Medicaid FFS program currently pays GRT to health care providers who are subject to GRT. The requirements stipulated in the substitution of SB249 may also apply to FFS, and could also be challenging and complex to achieve for Mi Via providers.

HCA does not believe the bill would create a health care-related tax for federal Medicaid law purposes. To be considered a health care-related tax (commonly referred to as "provider tax") under federal Medicaid law, the tax must:

1)levy at least 85% of the tax burden on health care providers, or

2) treat entities providing or paying for health care items or services differently than other individuals or entities.

Enactment of this bill would not result in 85% of the GRT tax burden being placed on providers. Also, health care providers or payers for health care services would not be treated differently. The GRT tax structure, including rate methodologies and definitions would apply the same to providers as others. Deductions, exemptions, and credits are a common feature of New Mexico's GRT system that span across a wide array of businesses and industries. Therefore, differential treatment of providers is not indicated for purposes of a federal health care-related tax analysis. HCA does not believe the passage of SB249 would impact this analysis as that bill deals with the reimbursement of Medicaid provider GRT by MCOs and does not t further limit or expand the payment of GRT by providers.

Under current federal requirements, even if the bill creates a health care-related tax, the arrangement is eligible for drawing down federal match as it is broad-based and does not violate the "hold harmless" rule.

PERFORMANCE IMPLICATIONS

The itemization required by SB249 would impose an administrative burden on the Medicaid program. In addition to the IT system changes needed, there are also training requirements for

providers and MCOs. It is possible that the requirements in the bill could also require renegotiating each provider agreement/contract with the MCOs. There are more than 67,000 Medicaid providers in New Mexico, most of whom hold contracts with the MCOs.

The requirements by the substitution of SB 249 would impose an administrative burden on the Medicaid program. In addition to the IT system changes needed, there are also training requirements for providers and MCOs. It is possible that the requirements in the bill could also require renegotiating each provider agreement/contract with the MCOs. There are more than 67,000 Medicaid providers in New Mexico, most of whom hold contracts with the MCOs.

Current MCO contract requirements cite the following provisions regarding GRT:

- [in capitation rate] The CONTRACTOR's Capitation Rate will be established by HCA. HCA's actuaries will develop components of the Capitation Rates, to include the medical services components, premium tax, **gross receipts tax for provider payments**, and the administrative expense portion of the Capitation Rates.
- [in provider agreements] **Address how gross receipts tax (GRT) will be accounted for when reimbursing providers (i.e., whether the GRT will be built into the negotiated contract rate or paid separately and identify the amount of GRT that will be paid on Medicaid claims)**;
- [in provider payments] The CONTRACTOR **shall negotiate with providers how the GRT will be accounted for when reimbursing providers and consider GRT when establishing reimbursement rates (i.e. whether the GRT will be built into the negotiated contract rate or paid separately and identify the amount of GRT that will be paid on Medicaid claims)**
- [in special reimbursement] The CONTRACTOR shall be reimbursed for paid Claims at either the established Medicaid fee schedule or the contracted rate in the provider agreement, whichever is greater, as of the date of service, **plus GRT as applicable**. HCA shall reimburse the CONTRACTOR with State funds for State-funded services and State funds and federal match for federally-funded services via invoicing methodology
- Unless otherwise noted in Section 4.10.3 of this Agreement, **the CONTRACTOR shall reimburse all providers at or above the State Plan approved fee schedule for all services reimbursed at a fee-for-service payment methodology exclusive of applicable taxes and negotiated amounts** under 4.10.2.

The HCA oversees MCO compliance with these contractual provisions including through provider rate audits to ensure conformance with the contract.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
None known.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

None for the HCA.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
Status quo.

AMENDMENTS
See Alternatives suggested above.

This bill should be amended so that the requirements apply to both Medicaid fee-for-service and managed care.