



New Mexico Human Services Department

Office of the Secretary

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Susana Martinez, Governor
Sidonie Squier, Secretary

August 8, 2011

The Honorable John Arthur Smith
NM State Senator
Chairman, Legislative Finance Committee
Box 998
Deming, NM 88031

The Honorable Luciano Varela
NM State Representative
Vice-Chairman, Legislative Finance Committee
1709 Callejon Zenaida
Santa Fe, NM 87501

Dear Chairman Smith & Vice Chairman Varela:

For an unknown number of years, HSD has been unable to reconcile its federal Medicaid grants to cash in the state treasury. DFA, LFC and HSD began to notice persistent negative cash balances in the accounts held at the state treasury around April 2009 – the Richardson Administration was fully aware of this problem after it came to light and we must now deal with the consequences of their inaction.

The department found that its federal Medicaid expenditure reports (CMS 64) and the SHARE accounting system did not reconcile. The millions of transactions each quarter and complex reporting requirement made immediate resolution difficult. The problem was 'sized' at about \$100 million – either under-reported expenditures to the federal government (thus, not getting reimbursed) or overdrawing federal funds to pay current expenditures (thus, obscuring the cash problem).

The department's FY10 financial audit booked \$103 million as a liability to the federal government, and it has become clear to us that the state is responsible for paying a majority, if not all, of this back. By reconciling our federal grants, we have returned these funds, leaving a significant negative balance in our accounts in the state treasury. HSD may have to request \$60 million to \$100 million in deficiency appropriations during the 2012 legislative session to replenish these accounts. Although we have not pinned down the exact amount that may be required, we are compelled to alert you to this significant liability.

While the department for two years has been trying to determine the magnitude of the shortfall in the accounts, prior to 2009 it seems a blind eye may have turned to this problem so that it was never fully appreciated. Unfortunately, it has become clear to us that a substantial portion must be repaid by the state. In general terms, of the \$103 million liability, we've identified the following:

- \$40.8 million is classified as deferred revenue – This is unreported expenditures associated with the 2-year filing limit waiver request now being considered by the Centers for Medicare and Medicaid Services (CMS). Although unlikely, it may be possible that CMS will grant the waiver and reimburse the state this amount.
- \$2.3 million was underreported and subsequently resolved with a quarterly adjustment to our federal drawn.
- \$9 million over-drawn and paid back to the federal government
- About \$40.1 million of cost settlements that were not reported to the federal government. The Department should have reduced the claim by the federal share of those cost settlement amounts. The result being that an over draw which was identified and reported - Dec 2010 Quarter.
- About \$10.8 million remains undetermined.
- Another factor affecting cash is the impact of receivables from providers and recipients for overpayments. Any such receivables are returned to the federal government although we are unable to collect it from providers and recipients. In some cases, the federal government will send back the federal share to states for uncollectible receivables. We've initiated a conversation with CMS and have begun reviewing these receivables, but at this point we do not know how much we may be able to get back from the federal government.

This leaves a potential of \$100.7 million to resolve negative cash balances at the treasury, which may require a one-time appropriation.

There are a few items that may reduce our deficiency appropriation request. The first is an approved waiver by CMS. The second may come from possible collections from overpayments to providers. In addition, federal regulations permit CMS, under certain circumstances, to refund to the states the federal share of uncollectible receivables due from providers. The first step in the process is for HSD to identify which provider receivables may qualify for the return of the federal share. We are actively working on this, but we don't anticipate a significant return of such funds. These items could reduce any appropriation request by more than \$40 million, leaving a deficiency need of about \$60 million.

While this issue highlights bad management practices in the past, we have taken significant steps to ensure this doesn't happen again.

- We've developed and implemented software tools to find and resolve discrepancies in the CMS 64 and SHARE reports to prevent future problems. The two systems are being reconciled monthly by a cross divisional workgroup that is devoted to resolving

- discrepancies in a timely manner. The taskforce meets bi- weekly with senior management.
- We have reorganized bureaus within Program Support to better manage and reconcile grants to expenditures and receivables. Grants reconciliation and cash management are a priority for the department.
 - We will only draw for current reported expenditures and will not draw from current grant of award to cover expenses reported on a prior quarter. By the end of FFY11, HSD's draws will equal the amount reported on the CMS 64 for FFY 11. These cash management policies are in line with federal rules.

Again, we're bringing this issue to your attention because of its magnitude and possible impact on the state budget. We will remain in close contact with you and your staff as we continue to pin down a more precise funding request.

Sincerely,



Sidonie Squier, Secretary
NM Human Services Department

Cc: Members, Legislative Finance Committee
Keith Gardner, Chief of Staff
Rick May, Secretary Department of Finance and Administration
David Abbey, Director, Legislative Finance Committee