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FISCAL IMPACT REPORT

ORIGINAL DATE 2-4-06
 SPONSOR SPAC LAST UPDATED 2-6-06 HB _____
 SHORT TITLE Developmental Disability Waiting List SB 189/SPACS
 ANALYST Collard

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------------|-------------------------|------------------|
| FY06 | FY07 | | |
| | \$59,000.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 718
 Relates to HB 356

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Non-Rec | Fund Affected |
|-------------------|------------|------------|-------------------------|------------------|
| FY06 | FY07 | FY08 | | |
| NFI | \$33,028.8 | \$35,380.3 | Recurring | Federal match |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY06 | FY07 | FY08 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|------------|------------|----------------------|-------------------------|------------------|
| Total | N/A | \$14,000.0 | \$15,000.0 | \$29,000.0 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Aging and Long-Term Services Department (ALTSD)
 Human Services Department (HSD)

SUMMARY

Synopsis of SPACS Bill

The Senate Public Affairs Committee substitute for Senate Bill 189 creates the Medicaid Waiver Services Fund in the state treasury and appropriates \$59 million to that fund for use by HSD in FY07 and three subsequent fiscal years, ending in FY10 to allocate additional individuals to the Developmental Disabilities Medicaid Waiver (DD waiver) and the Disabled and Elderly Medicaid Waiver (D&E waiver) as follows:

| | FY07 | FY08 | FY09 | FY10 |
|-----------------------|----------------|--------------|--------------|-------------------------------|
| DD Waiver | \$10.5 million | \$11 million | \$11 million | 65 percent of remaining funds |
| D&E Waiver | \$3.5 million | \$4 million | \$4 million | 35 percent of remaining funds |

Pursuant to Section 3 of the substituted bill, the Medicaid Waiver Services Fund will not exist after FY10.

FISCAL IMPLICATIONS

The appropriation of \$59 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY10 shall not revert to the general fund.

DOH indicates the bill does not specify that once an individual is allocated, funds that support the allocation must recur in the administering agencies' budgets on an ongoing basis. When an applicant is allocated to the DD waiver, they are entitled to continue to participate in the program as long as they continue to meet federal level of care requirements.

Each fiscal year, the recurring costs for the year will increase by the amount distributed to reduce the waiting list in the preceding year so that at the end of FY10, these programs will cost an additional \$59 million (at minimum) annually. This being the case, putting the money in a fund for this purpose requires a corresponding annual recurring commitment regardless of the overall revenue picture for that fiscal year. This could, in effect, create an unfunded mandate.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

HSD notes the appropriation of \$59 million would qualify for federal matching funds, based on the actual distribution of Federal Financial Participation (FFP) and Federal administrative 50 percent match. As shown in the attached matrix, the \$59 thousand would be eligible for a total match of \$139.1 million from FY07 through FY10 from federal Medicaid matching funds. This information was provided by HSD and breaks out funding by administrative costs, state non-waiver plans and direct services for DOH, HSD and ALTSD.

A few stipulations should be noted when looking at the attached matrix: 1) the FY10 scenario is based on each department fully exhausting prior year funds and 2) the administrative percentages, as shown in the footnote, are negotiated with the federal government. It should be noted approximately \$45.5 million of the total appropriation will go toward direct services under the attached matrix.

SIGNIFICANT ISSUES

DOH indicates an appropriation of \$10.5 million in FY07 will support services to approximately 550 additional individuals, depending upon the age and level of care characteristics of the applicants. This projection assumes a FY07 federal Medicaid blended match rate of approximately 28 percent. The appropriation would be operationalized as follows: approximately \$9.66 million for direct services and Medicaid state non-waiver plans, and up to \$840 thousand (8 percent) to assure adequate program infrastructure and participant support.

The distributions from the fund of \$11 million in FY08, FY09 could add approximately 580 individuals in each of those fiscal years, depending upon the age and level of care characteristics of the applicants and the federal match rate for Medicaid services in those fiscal years.

In January 2005, there were 3,499 applicants listed on the waiting list. The current length of wait for services through the DD waiver is approximately five years, although this varies by region. DOH indicates the bill could help reduce the length of time individuals wait to enter the DD waiver program.

HSD notes, according to an HSD/MAD ad hoc report of census data for clients served on the DD waiver that reflects claims adjudicated as of January 6, 2006, there were 3,521 preexisting DD waiver clients receiving services at the beginning FY06. According to DOH approximately 190 additional individuals are projected to receive DD waiver services in FY06. It is estimated that the total number of individuals to receive DD waiver services for FY06 is approximately 3,711. It is important to note that 3,711 is only an estimate of the number of individuals to receive DD waiver in FY06. The actual number depends on the total number of individuals who leave the waiver through attrition and the total number of crisis allocations that are made during FY06. Generally, about 70 individuals leave the DD waiver each year due to attrition and 25 additional crisis allocations are made each year.

According to ALTSD, in January 2006, there were approximately 7,285 registrants wait listed on the D&E waiver waiting list. Registrants generally wait approximately forty-one months (or 3.5 years) before receiving an allocation for the D&E waiver.

According to an HSD/MAD ad hoc report of census data for clients served on the D&E waiver that reflects claims adjudicated as of January 6, 2006, there were 1,936 preexisting D&E waiver clients receiving services at the beginning FY06. According to HSD/MAD approximately 846 additional individuals are projected to receive D&E waiver services in FY06. It is estimated that the total number of individuals to receive D&E waiver services for FY06 is approximately 2,782. It is important to note that 2,782 is only an estimate of the number of individuals to receive D&E waiver in FY 06. The actual number depends on the total number of individuals who leave the waiver through attrition and the total number of emergency crisis allocations that are made during FY06.

Based on the appropriation and federal match, (excluding an additional money contributed to the fund) HSD estimates that approximately 3,545 (1,820 DD waiver and 1,725 D&E waiver) additional people would be served. HSD indicates the bill would have a positive impact on the wait list litigation by reducing both the number of persons on the DD waiver and D&E waiver central registries wait list and the length of time persons spend on the wait list.

ALTSD indicates there are currently 7,285 registrants on the D&E waiver waiting list. The current average length of wait for D&E waiver services is approximately 34 months. ALTSD indicates this bill allocates funds to provide waiver services to 612 persons who are disabled or elderly in FY07, 741 in FY08 and an additional 741 in FY09, and 764 additional persons in FY10. ALTSD estimates that 2,858 persons may be served through this appropriation based on a full 12-month enrollment in the program.

ADMINISTRATIVE IMPLICATIONS

DOH indicates additional program infrastructure would be needed over the four-year period to continue to effectively operate the DD waiver program. This bill does not address the additional FTE or other program costs related to serving the additional individuals. As allowed under federal guidelines up to 8 percent of the appropriation would need to be used by DOH for program infrastructure and participant support services.

In FY07 through FY10 additional FTE will be needed to enable DOH to ensure that the management standards mandated by federal law for the waiting list and the Medicaid processes are upheld and to assure continued compliance with the new stipulated agreement in the Jackson litigation. These FTE will provide training/technical assistance to individuals served and community service agencies.

With this appropriation in FY07, the Division of Health Improvement estimates it would require additional 10 FTE for every 300 allocations in order to maintain current caseloads in Incident Management Bureau and functions within the Quality Management Bureau. The Division of Health Improvement would require the additional FTE to handle a larger sample size for its current provider program audits and to address the increase in the number of providers.

HSD states the department has programmatic oversight of the D&E and DD waivers. The DD and D&E waiver applications, to be approved by the Centers for Medicaid and Medicare Services (CMS) by June 2006 for implementation on July 1, 2006, would have to be amended to accommodate the higher expenditures and recipient count. The number of unduplicated recipients approved in the waiver cannot be exceeded without prior approval of CMS. HSD would have to adjust the Medicaid utilization review (UR) contractor's budget to ensure coverage of the cost of additional reviews. Program oversight and UR contract oversight would also be impacted. HSD would have to manage and oversee the distribution of money from the fund. HSD would have to complete additional financial eligibility determinations and provide other support to the additional individuals.

HSD indicates an additional impact of \$29 million from the general fund for this bill; however, the department does not provide a breakout of that need.

As this funding will more than double the size of the D&E waiver program, ALTSD will need six (6) additional FTE as follows:

- 3 direct D&E waiver program operational staff
- 2 additional resource center support staff
- 1 additional administrative services division support staff

ALTSD notes, since additional persons will receive waiver services, there will be additional financial implications on the administration of the program. Additional positions will be needed

to administer the program expansion. It is estimated that \$337 thousand for the above positions will be needed by ALTSD for FY07. It seems the administrative cost allowed for in the matrix covers these costs for ALTSD.

DUPLICATION

The Senate Public Affairs Committee substitute for Senate Bill 189 duplicates House Bill 718. Additionally, the Senate Public Affairs Committee substitute for Senate Bill 189 relates to House Bill 356, which appropriates \$4 million to reduce the DD waiver waiting list by 200.

TECHNICAL ISSUES

DOH states funds appropriated under this bill will need to be managed on an ongoing basis by DOH and ALTSD, therefore, the distribution of funds through HSD could be eliminated and funds could be directly distributed from the fund into the administering agencies' base budgets. Using HSD to access the funds adds an unnecessary administrative step to the budget process, with no apparent benefit to the state or persons served.

It should be noted the direct services portion of funding for the D&E waiver resides at HSD. Therefore, sidestepping HSD would only be applicable to DOH.

The intended use of this funding requires that it not be a one time only distribution. Funds equal to the amount of each year's distribution must be recurring to DOH and ALTSD in years subsequent to the initial distribution. For example the \$10.5 million distributed in FY07 will be added in FY08 and subsequent fiscal years, on a recurring basis, to the DOH base budget in order to provide ongoing services to person allocated in FY07.

OTHER SUBSTANTIVE ISSUES

ALTSD notes, based on the D&E waiver application approved by CMS for FY06, the D&E waiver is authorized to serve up to 3,000 unduplicated individuals or the number of individuals allowed by legislative appropriation, whichever number is less. The CMS unduplicated individuals approved for FY07 is yet to be determined. The appropriation contained in this bill will result in a higher number of unduplicated individuals served. Implementation of this bill will require approval from CMS for an additional amendment to the application to increase the number of unduplicated recipients.

KBC/yr