

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/11

SPONSOR HHGAC LAST UPDATED \_\_\_\_\_ HB 373/HHGACS

SHORT TITLE HSD Secretary Submit FIR when Changing Medicaid SB \_\_\_\_\_

ANALYST Earnest

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Human Services Department (HSD)

Department of Health (DOH)

Aging and Long Term Services Department (ALTSD)

### SUMMARY

#### Synopsis of Bill

House Health and Government Affairs Committee Substitute for House Bill 373 amends the Public Assistance Act to require the Human Services Department to submit a fiscal impact statement and description of proposed Medicaid changes to the Legislative Finance Committee (LFC) and the Department of Finance and Administration (DFA). The statement is to be submitted sixty days, or as soon as practicable, prior to submitting to the federal government for approval of the following types changes:

1. Amendments to the Medicaid state plan;
2. A waiver of state Medicaid plan requirements; or
3. Amendments to an existing waiver of state Medicaid plan requirements.

### FISCAL IMPLICATIONS

None identified.

### SIGNIFICANT ISSUES

The Legislature appropriates general fund revenue to two programs of the Human Services Department – the Medical Assistance Program and the Medicaid Behavioral Health Program –

the Development Disabilities Support Program of the Department of Health and the Long Term Services Program of the Aging and Long Term Services Department for Medicaid services. For FY11 these appropriations from the general fund were as follows:

- \$591.3 million to HSD for Medicaid and Medicaid Behavioral Health
- \$63 million to the DOH for the Developmentally Disabled Medicaid Waiver and
- \$2 million to ALTSD for the Traumatic Brain Injury waiver.

These appropriations support \$3.7 billion of total Medicaid spending in FY11, including Salud! (physical health managed care), the State Coverage Insurance (SCI) program, the Coordination of Long Term Services or CoLTS (long term managed care), and the fee-for-service programs. Each of these programs is supported by the lump sum general fund appropriation to HSD. However, changes to any of these – for example, new benefit designs, new enrollment procedures, or eligibility changes – can carry significant implications for state funding needs.

By requiring the department to submit a fiscal impact analysis of proposed Medicaid changes, the Legislature and DFA would be better informed about future Medicaid budget needs and services available for Medicaid clients.

According to a recent LFC program evaluation of CoLTS, “State plan amendments do not require statutory change and thus circumvent the normal process for the Legislature to weigh in on major policy changes and assess their fiscal impact. In addition, implementation of CoLTS was not considered a program expansion during the budget development, despite the addition of new costs to the Medicaid program in the form of managed care.” The report indicates that the CoLTS waiver added an estimated \$68 million in additional Medicaid costs for managed care administration, profit, and taxes. In addition, the personal care option (PCO) is an optional amendment to the Medicaid state plan that creates an entitlement service. PCO costs have increased from a little over \$50 million in FY01 to over \$334 million in FY10. The developmental disabilities waiver (DD waiver) costs have also continued to climb, making investments in program expansion to thousands of needy New Mexicans on the waiting list unaffordable. HSD and DOH are in the process of submitting changes to this waiver.

The HHGAC substitute addresses concerns raised by the Human Services Department about the breadth of language in House Bill 373. Specifically, the bill does not require HSD to submit a statement for technical adjustments that the Secretary deems not to have a fiscal impact and provides some flexibility in the timeframe to submit the statements.

The State of Utah has a similar reporting requirement to that contained in HB 373. For comparison, the Utah Legislature requires the following [Section 26-18-3 (b)]:

(b) The report required by Subsection (3)(a) shall:

- (i) be submitted to the Health and Human Services Appropriations Subcommittee prior to the department implementing the proposed change; and
- (ii) include:
  - (A) a description of the department's current practice or policy that the department is proposing to change;
  - (B) an explanation of why the department is proposing the change;
  - (C) the proposed change in services or reimbursement, including a description of the effect of the change;

- (D) the effect of an increase or decrease in services or benefits on individuals and families;
- (E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and
- (F) the fiscal impact of the proposed change, including:
  - (I) the effect of the proposed change on current or future appropriations from the Legislature to the department;
  - (II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;
  - (III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and
  - (IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

### **ALTERNATIVES**

DOH suggests that “one way to expedite the process is to request that HSD submit a copy of the fiscal analysis to DFA and LFC for any changes at the same time it is submitted to the federal government. This would allow either entity to raise concerns with HSD while the proposed action is still in the negotiation phase with the federal government.”

BE/svb