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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11

SPONSOR Lopez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Substance Abuse and Pregnant Women Services SB 354

ANALYST Esquibel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Unknown	Unknown	Unknown	Recurring	General Fund; Medicaid

(Parenthesis ( ) Indicate Expenditure Decreases)

SB354 relates to SB353, Substance Abuse & Family Planning Services and HM14, Substance Abuse & Prenatal Care Task Force.

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 354 proposes to add a new section of the Public Health Act to include a requirement that the Department of Health issue a license to health facilities that offer substance abuse treatment programs to women if the facility agrees to give preference in admission to a pregnant woman and offer the same services to a pregnant woman as would be offered to any woman.

## FISCAL IMPLICATIONS

The Human Services Department indicates SB354 provides for an additional service that may not be supported by existing public funding streams.

Some outpatient substance use treatment services to pregnant women are covered through Medicaid if all the following criteria are met:

- The patient is Medicaid-eligible;
- The service must be a benefit under the NM Medicaid State Plan;
- The provider is providing services in accordance with his or her license; and
- The provider must be credentialed as a Medicaid provider of that service as part of the Statewide Entity-contracted provider network.

The Department of Health (DOH) indicates it would incur costs in promulgating regulations to amend existing Special Hospital and CMHC regulations to address the requirements of SB354. Additionally, the survey tool and process for the facilities would have to be revised. Finally, the length of licensed facility surveys would increase somewhat to comply with the new regulatory requirements added by SB354. Specifically, DOH staff travel costs and staff work hours would increase.

## SIGNIFICANT ISSUES

The Department of Health indicates SB354 is a result of the Senate Memorial 19 Task Force (2010), which issued its final report and recommendations in November 2010. The specific recommendation addressed by SB354 is Policy Recommendation II- Increase Access to Quality Substance Abuse Treatment, Prenatal Care and Family Planning for Women; Part d- Prohibit discrimination against pregnant women in accessing substance abuse treatment. If a provider or treatment center offers treatment for women, they must also include pregnant women.

Currently, the Department of Health, Division of Health Improvement (DOH/DHI) licenses two types of facilities that are related to SB354: special hospitals that include in-patient rehabilitation hospitals that provide drug and alcohol detoxification and rehabilitation; and Community Mental Health Centers (CMHCs) that may provide out-patient substance abuse treatment services in conjunction with mental health services.

DOH licensed facilities that provide some type of substance abuse treatment are required to provide fair and equitable treatment for all individuals admitted to the facility. The existing state and federal systems require optimal care and services to all. Licensed facilities are currently required to offer the same services to everyone. This includes pregnant women.

Licensing requirements do not allow for deviation of special or preferential treatment to an individual or a group of individuals. Requiring preferential treatment as a condition for licensure would be in direct conflict with federal, third party or other payer source requirements. State and federal laws prohibit licensed or certified facilities from discriminating against patients. To not offer “the same services to pregnant women with substance abuse disorders, unless otherwise medically indicated” as stated on lines 23-25 of page 1 of SB 354 would be discriminatory. Conversely, to “give preference in admissions to a pregnant woman who seeks or is referred to the health facility for treatment of a substance abuse disorder” as stated on lines 1-3 of page 2 of SB 354 would be discriminatory.

### **ADMINISTRATIVE IMPLICATIONS**

Under the provisions of SB354, the Department of Health's Division of Health Improvement would have to promulgate regulations to amend current requirements for both Special Hospitals and CMHCs. Licensing survey tools and the survey process would have to be revised and more staff time would be needed to survey compliance with the new requirements.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB354 relates to SB353, Substance Abuse & Family Planning Services and HM14, Substance Abuse & Prenatal Care Task Force.

### **TECHNICAL ISSUES**

Currently, the NM Department of Health, Division of Health Improvement, Health Facilities Licensing and Certification Bureau issues licenses to the following entities: CMHCs (Community Mental Health Centers) and Alcohol and Drug Abuse Treatment Hospitals. SB354, as written, would not cover additional substance abuse treatment service providers and so this class of providers would be excluded from the provisions of SB354.

RAE/bym