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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12

SPONSOR Jennings LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Update Medical Payment For Physician Services SB 170

ANALYST Geisler

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

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Significant, see fiscal impact	Significant, see fiscal impact	Significant, see fiscal impact	Recurring	General, Federal

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Human Services Department (HSD)

University of New Mexico (UNM)

### SUMMARY

#### Synopsis of Bill

Senate Bill 170 would amend the Public Assistance Act to update reimbursement of physician services through the Medicaid program to be equal to 105% of the Medicare “part B” physician fee schedule for New Mexico in effect on December 31, 2010. The new fee schedule would apply to physician services furnished on or after July 1, 2012, and it would also apply to HSD contracts with managed care entities that are entered into or renewed on or after July 1, 2012.

There are also changes to existing wording that specifically applies the “Medicaid Reimbursement—Equal Pay for Equal Physicians’, Dentists’, Optometrists’ Podiatrists’ and Psychologists’ Services” provisions of the Act to HSD department contracts with managed care entities, which are currently specifically excluded from the Act.

### FISCAL IMPLICATIONS

HSD notes that the bill would require significant increases in the Medicaid fee scheduled for the Medicaid fee-for-service program and for managed care organizations, with no corresponding funding provision. HSD projects that the bill will increase the payments for services to these providers by approximately 15.5% (on average), applying to approximately \$490 million in

Medicaid expenditures annually. Therefore the anticipated total annual cost is estimated to be \$76 million, of which \$23.6 million (31%) would come from the State General Fund.

HSD notes that one of the largest expenditures in the Medicaid program are for office visits and hospital visits, including emergency room visits, evaluation and management codes. Comparing the current Medicaid fee schedule to 105% of the 2010 Medicare fee schedule, the estimated average increases are as follows: 16.5% increase for office visits, 17.5% increase for emergency room visits and 23.3% increase for inpatient hospital visits. Similar changes would apply to other services: 19% increase for anesthesia services, 13% overall increase for surgical services (some services increase, others decrease), 2% overall increase in radiology services (note: MRI's increase by more than 18% while obstetrical ultrasounds decrease by 15%).

Prenatal care and delivery has impacts including a -2.3% (decrease) for normal deliveries unless the 112% of Medicare rate is retained and a 11% increase for C-section deliveries (only because current Medicaid policy pays for C-section deliveries at the same rate as normal deliveries in order not to incentivize C-sections).

HSD also notes that the payment going to managed care organizations to fund these increase would be subject to an administrative fee.

In analyzing their current rate structure, the University of New Mexico Health Sciences Center estimates the UNM medical group would see a decrease in payments of approximately \$3.25 million for an aggregate decrease of 10% in reimbursement from all Medicaid payer sources. In order for SB 170 to have a budget neutral effect on CY 2011 expected payments, the percentage of Medicare needs to increase from 105% to up to 115%.

## **SIGNIFICANT ISSUES**

In December 2009 the state reduced the Medicaid Provider Fee Schedule by 3% across the board for all services, which had a significant negative impact on Medicaid providers in the state. The intent of Senate Bill 170 is to provide a rate increase for the physicians on the frontlines of providing care to the state's over 500,000 Medicaid recipients.

### HSD Input:

HSD notes that the bill would lower payments for Obstetric (OB) services, which tend to be reimbursed at low rates in the Medicare fee schedules (compared to the high costs of the provider), which is why the Medicaid program has generally paid significantly higher than the Medicare fee schedule for these services.

In addition, Section 1202 of the Patient Protection and Affordable Care Act (ACA) requires state Medicaid agencies to increase payments to certain physician specialties for primary care services provided to Medicaid recipients during calendar years 2013 and 2014. Payments to physicians with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine are to be reimbursed at a rate not less than 100 percent of the Medicare rate for those same procedures and services. The federal government, through an enhanced Federal Medical Assistance Percentage (FMAP), will pay states 100 percent of the rate in excess of the current payments for meeting this requirement. It is not clear under the ACA whether states will receive this enhanced FMAP for rates above 100 percent of the Medicare rate, such as 105% as proposed

in SB 170, or whether the State’s existing FMAP of 69% would apply for rates from 100% – 105%.

By applying “Medicaid Reimbursement—Equal Pay for Equal Physicians’, Dentists’, Optometrists’ Podiatrists’ and Psychologists’ Services” provisions of the Act to HSD department contracts with managed care entities, the bill removes significant negotiating tools from the managed care organizations that are useful in constructing a provider network. It also removes the ability of a managed care organization to enter into agreements with providers in rural and/or underserved areas where currently a managed care organization may pay a higher rate to providers in such an area. The higher rates paid in rural and otherwise underserved areas are used to promote recipient access to services in such areas.

University of New Mexico Input:

If SB 170 is enacted and the state elects to replace the current Medicaid fee schedule to the floor established in the bill, the UNM medical group (UNMMG) will suffer a significant loss, and could potentially impact the range and scope of services, especially in the area of maternal and child care, provided to Medicaid patients.

Approving SB 170 would represent a significant loss in payments to UNMMG. Although, SB 170 establishes a floor in the rate the state pays physicians, if the Human Services Department’s Medical Assistance Division (MAD) elects to replace the current Medicaid Provider Fee Schedule with 105% of the Medicare rate in effect as of 12/31/10, which was \$36.88 at the time, some services will enjoy an increase in reimbursement, for example primary care, while others will decrease. However, for the volume and scope of services provided by UNMMG, especially in the area of obstetrics, the losses are significant. In 2008, the Medicaid-to-Medicare Fee Index in New Mexico as reported by Kaiser Family Foundation for obstetric care was 1.26. For all services, it was 1.7 and for primary care it was .98. Therefore, the service that would experience the greatest loss by enacting SB 170 would be obstetrics.

**TECHNICAL ISSUES**

HSD notes that sections A and B of SB 170 refer to reimbursement of “physicians, dentists, optometrists, podiatrists and psychologists.” However, Section C and D of SB 170 requires the department to update reimbursement “of physician services” rendered to Medicaid patients; however, there is no definition of what is a “physician service.”

**ALTERNATIVES**

UNM is not opposed to a minimum rate, but suggests increasing the percent of the Medicare rate from 105% to up to 115% in order to make the fiscal impact of SB 170 budget neutral compared to current Medicaid reimbursement for professional services to UNMMG. This would increase the proposed floor in the conversion factor, the dollar amount that is applied to the Medicare Relative Value Unit associated with a particular procedural code, from \$38.72 to \$42.31.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo, HSD’s Medical Assistance Division will retain the authority to manage Medicaid provider rates.