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FISCAL IMPACT REPORT

SPONSOR Stefanics ORIGINAL DATE 3/5/21
LAST UPDATED _____ HB _____
SHORT TITLE Medicaid Waiver Wage Act SB 342
ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$130	\$70	\$200	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 342 (SB342) would require agencies that provide services under the developmental disabilities waivers to increase compensation to direct-support professionals when Medicaid reimbursement rates paid to the provider agencies are increased. At least 70 percent of the additional funds must be used to increase direct support professionals' compensation. The bill also requires the Department of Health (DOH) to create a reporting tool for provider agencies to report on staff compensation and direct support professionals' data. DOH would be allowed to recoup reimbursement rate increases, in whole or part, if the provider agency does not increase compensation as required or fails to track and report use of the rate increase.

FISCAL IMPLICATIONS

DOH reported collecting data and tracking and analyzing compensation to Developmental Disabilities Supports Program (DDSD) would require additional staff resources and expertise to implement. The department estimated an DDSD would need \$60 thousand in contractual services and an FTE estimated at \$70 thousand to fulfill the requirements in the bill.

SIGNIFICANT ISSUES

DOH believes this will assist in addressing the nationwide struggle in the retention and recruitment of direct-support care due to wages and benefits. However, the department also reported,

SB342 requires additional clarification regarding the “additional funds” referred to in Section 3 that pertains to the difference between the old rate and new rate, as opposed to 70 percent of the total new rate. The bill assumes that 70 percent of an increase is appropriate for direct support professionals (DSP) wages. However, rate increases are based on multiple components with variable weighting in a rate model for each service. Rate build up components include hourly rates, employee related expenses, employee salary and benefits, admin and program support costs, mileage, billable/nonbillable factors, and bundled nursing and nutritional components depending on the service type and definition. Clarification is also needed in Section 2A regarding “payroll taxes” as inclusive or exclusive of employer paid payroll taxes (e.g. the Federal Unemployment Tax Act - FUTA).

DOH reported the bill does not indicate any allowance for the licensed staff, such as registered nurses, licensed practical nurses, and dieticians for services that bundle direct-support professionals support and other licensed staff support within a daily reimbursement rate. For these services, passing 70 percent of a service rate increase to direct support professionals could impact the ability of a provider to also increase or to simply maintain wages for the nursing or nutritional component of the bundled service. The department requested the definition of “direct support professional” to be clarified.

DOH also states the overall compensation increase to direct-support professionals may not be balanced in distribution because the percentage increase in reimbursement rates varies per service and current provider determined wages to direct support professionals varies.

Finally, DOH reported the bill has no allowance for provider discretion to increase wages incrementally or to increase for employee performance and longevity.

ADMINISTRATIVE IMPLICATIONS

HSD would work with DOH to develop the mechanism for Medicaid recoupments related to direct-support professional’s compensation. Additionally, HSD would work with DOH to promulgate changes to the New Mexico Administrative Code to include new requirements for provider agencies. HSD believes it can support these requirements with existing staffing resources.

TECHNICAL ISSUES

DOH reported in Section 2, lines 13-17, of the bill:

The term "intellectual and developmental disability program" is not clearly defined. There are three applicable Medicaid waivers serving the developmental disabilities population in NM that are authorized pursuant to Section 1915(c) of the federal Social Security Act, namely the “Traditional” DD Waiver, Medically Fragile Waiver, and Supports Waiver.

OTHER SUBSTANTIVE ISSUES

DOH reported this bill affects a workforce of over 5,800 direct-support professionals related to the developmental disabilities waiver (DD waiver) program alone. There are approximately 120 agencies that would be affected by the record-keeping requirements in Section 5 of this bill. DOH also reported close to 3,200 individuals are enrolled in the traditional DD Waiver Program and 158 in the traditional Medically Fragile Waiver Program.

The creation and use of a reporting tool to meet the monitoring requirements in the bill for over 5,800 direct-support professionals in approximately 120 agencies would require additional staffing resources to develop a comprehensive project plan, including exploration of software/IT needs and data management resources not currently part of DOH DDSD operations.

Other states have implemented similar approaches for direct-support professional compensation to reduce turnover and vacancy rates: New Jersey implemented direct-support professionals rate increases, directing provider agencies to use the higher payments to increase base wages for direct-support professionals; Colorado implemented a 6.5 percent increase in the reimbursement rate for certain home- and community-based services, requiring the full 6.5 percent increase to be used for compensation of the direct support professionals; and Indiana required 75 percent of the rate increase to be passed through to direct support professionals compensation.

KK/rl/sb