

LFC Requester:	Lance Chilton
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/25/24
Bill No: HB94

Sponsor: Rep. Kathleen Cates
HEALTH DATA
COLLECTION & COST
STUDY
**Short
Title:**

**Agency Name
and Code** HCA-630
Number: _____
Person Writing Jennifer Rodriguez, DDSD,
fsdfs **Analysis:** Melanie Buenviaje, MAD
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	\$400.00	nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	nonrecurring	Federal Match Funds

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with and relates to 2023 HB 395

Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This bill requires the Health Care Authority Department to collect and report data relating to the direct care worker workforce, requiring a biennial personal care services cost study report; requiring the Health Care Authority Department to implement the cost study's recommendations and makes an appropriation.

FISCAL IMPLICATIONS

- The cost to HCA for provider rate increases will be dependent on rate recommendations that result from biennial cost studies.
- The appropriation should be recurring biennially to have adequate funding to support and conduct biennial cost studies.

For Community Benefit Personal Care Services (CB PCS) under the Agency-Based and Self-Directed Models:

If HB 94 were enacted, additional staff would be needed to conduct an RFP, oversee the vendor contract for the data collection and cost study, and provide reporting.

Two FTE at HCA, Medical Assistance Division would cost \$113,100 in SGF annually (\$93,800 salary+19,300 in other operating costs).

The remainder of the appropriation can be used to engage one or two vendors to meet the proposed requirements. It is unclear if this is enough funding to engage sufficient vendor support to complete the data analysis and cost study.

SIGNIFICANT ISSUES

- HB 94 requires personal care service provider agencies to submit data to a third-party contractor engaged by the department. HB 94 does not require the department to engage with a contractor annually, rather biennially.
- If rate studies are being proposed biennially, and this information requested is collected through the rate study process, it makes sense to only report on the provider data biennially.

- HB 94 does not require provider agencies to reimburse their staff at least 150% of the state's minimum wage so even if the rates support this, provider agencies are not required to pay their direct care workers of personal care services the 150% of state minimum wage. This missing requirement undermines the intent of this reimbursement rate.
- Under the 1915c Home and Community-Based Services (HCBS) Waivers, the Centers for Medicare and Medicaid Services (CMS) requires the Developmental Disabilities Services and Supports Division (DDSD) conducts a comprehensive rate study once every five-year cycle for each 1915c HCBS waivers. The study is covered as an administrative cost and Medicaid receives a 50/50 match of federal funding. HB94 would require the state to conduct rate studies biannually which is at a greater frequency than required by CMS. The state may not receive federal match dollars for the additional studies. The DDSD completed a comprehensive rate study in 2022, approximate cost to the state is \$500,000.00.
- For the CB PCS It is unclear whether the data collection vendor must be separate from the vendor engaged to conduct the cost study, or if this can be the same vendor.

PERFORMANCE IMPLICATIONS

- DDSD does not have performance measures related to HB 94.
- HB 94 relates to goals #2 and #3 of the HCA strategic plan.

ADMINISTRATIVE IMPLICATIONS

- The administrative impact on the HCA would be collecting and analyzing data through an annual report to the legislative health and human services committee, the legislative finance committee, and the governor.
- HCA would need to secure the money to conduct a biennial cost study and issue a Request for Proposals to identify a contractor.
- HCA would also have an administrative impact securing the money proposed for provider reimbursement, which would require recurring appropriations. This would include identifying who would receive the appropriation, how to divide this between different waiver/service providers and service categories and looking at past fiscal year expenditures for each provider.
- Under 1915c HCBS waivers, a rate methodology study must be completed to determine rates. Recommendations made because of data collection from HB94 must be supported by a rate study. Once the rate study is completed, rates are developed. Any changes to provider rates of pay must be approved by CMS through a waiver amendment to access federal match dollars. The entire waiver amendment process takes six months or more.

No IT impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

- HB 94 does not require provider agencies to reimburse their staff at least 150% of the state's minimum wage so even if the rates support this, provider agencies are not required to pay their direct care workers of personal care services the 150% of state minimum

wage. This missing requirement undermines the intent of this reimbursement rate.

- The definitions of personal care service and personal care service provider agency do not define what service types or what service providers, or which HCA programs provide personal care services, therefore it does not specify who exactly would be submitting data and participating in the cost studies.
- HB 94 does not specify which HCA programs (1915c HCBS waivers, Community Benefit, Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program) the cost study applies to.
- HB 94 does not specify which HCA programs would be studied every other year.
- The appropriation should be recurring biennially to have adequate funding to support and conduct biennial cost studies.

OTHER SUBSTANTIVE ISSUES

- Under the 1915c HCBS waiver programs, this information is already being collected due to the enactment of HB 395 during the 2023 legislative session. Under HB 395, the DDS conducts biennial rate studies and reports to the legislative finance committee currently. Studies under the DDS does not review the Community Benefit or EPSDT Personal Care Services, although it may be the same providers that have participated in the studies.
- This could be a perceived provider burden if multiple entities are collecting the same information.

ALTERNATIVES

None known

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB94 is not enacted, the HCA will not collect and report data relating to the direct care worker workforce; a biennial personal care services cost study would not be completed; recommendations would not be created for appropriation for increased rates to direct care workers.

AMENDMENTS

None