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FISCAL IMPACT REPORT

SPONSOR: Knauer DATE TYPED: 02/01/01 HB 211
 SHORT TITLE: Medicaid Managed Care Program Exclusions SB _____
 ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Health Policy Commission
 Health Department

No Response
 Human Services Department

SUMMARY

Synopsis of Bill

HB 211 amends the legislation (Section 27-2-12,6 NMSA 1978) that created a statewide Medicaid managed care program. The current legislation permits the department of Health and Human Services to exclude intermediate care facilities for the mentally retarded from the managed care system. The proposed change will require the department to exclude intermediate care facilities for the mentally retarded and a number of other services for the developmentally disabled from the Medicaid managed care program.

Significant Issues

HB 211 excludes the following services for the developmentally disabled from the Medicaid managed care program:

1. intermediate care facilities for the mentally retarded,
2. developmental disability in-home and community-based Medicaid waiver services,
3. developmental disability early intervention services,
4. developmental disability early intervention case management services and
5. developmental disability services for children and adults funded exclusively from the state's

general fund.

At present, community-based DD programs may be, but are not required by law to be, excluded from the Medicaid managed care program. Instead, the current situation is that this population receives DD services on a fee for service basis. The community-based DD programs bill directly to Medicaid/Consultec while the client's regular primary health care is provided through the managed care system.

The Health Department writes that the Human Services Department has had discretionary ability to "carve out" certain special populations from the SALUD/ Managed Care Medicaid Program and has done so in the past with nursing homes (including ICF/MR) and residential treatment centers (RTC) for children with serious emotional disorders. The Health Department further notes that HB 211 would add to the identified populations currently excluded from SALUD! and remove the flexibility that currently exists to, at a future date, include these high cost populations into the managed care system.

FISCAL IMPLICATIONS

There is no immediate fiscal impact associated with this legislation because excluded services are currently provided on a fee-for-service basis.

According to the Health Department there could be long-term fiscal impact on the state if the executive is precluded from implementing appropriate, cost-effective, quality delivery models that may result in more individuals being served.

ADMINISTRATIVE IMPLICATIONS

There are no immediate administrative implications for the Human Services Department because these services are provided outside the managed care system.

The Health Department reports that the implementation of HB 211 would have an administrative impact on both the Department of Health and the Human Services Department as it would prohibit both of them from having the authority to decide the extent to which developmental disability services could be reconfigured into cost-effective systems that manage care.

TECHNICAL ISSUES

The Health Department list the following two issues as problematic with the legislation:

State general funded services to adults and children with developmental disabilities are included in the list of services to be excluded from Medicaid managed care. The Human Services Department has no authority over state general funded services, which are supported by appropriations made to the Department of Health. These contracted services cannot be included in Medicaid managed care as they are not funded by Medicaid. These services are not available to "Medicaid recipients" through "Medicaid payments"; hence, these services should not be listed here.

Wording regarding the early intervention services/program does not accurately reflect the

population that is served and excluded from Medicaid managed care. That is, birth to three year olds with or at risk for developmental delay is the population served by the Medicaid Special Rehabilitation service and is excluded from SALUD! The term *developmental disability* is a label that may be premature for many of these eligible children; therefore the early intervention services should not be referred to and limited to, *developmental disabilities early intervention services*.

OTHER SUBSTANTIVE ISSUES

The same bill was introduced, passed, and vetoed in the 1999 and 2000 legislative sessions.

The Health Policy Commission indicates that capitated payments are more cost effective than fee-for-service payments. However, HPC states that to the extent that fee-for-service payments more completely reimburse health care providers for services rendered, the exclusion of the above services from a managed care program may result in a higher level of quality of care for the developmentally disabled. Additionally, patients in a fee-for-service payment system may have greater control over their choice of health care provider since a managed care contract will generally limit the number of doctors and other providers available.

Advocates and families of eligible individuals are concerned that the standard of care provided by managed care may not meet the specialized needs of this high-risk population.

The following is a summary of comments provided by the Health Department:

- Developmental disabilities can be described as a variety of conditions best treated with habilitation models and community-based services. Case management, residential, day habilitation, supported employment, behavioral supports, respite and personal care are just some of the services and supports utilized by this population. These services and supports are best described as habilitative services.
- C Currently, in the Medicaid Managed Care Program, the availability of providers who have the type of specialized knowledge necessary to meet the needs of the developmentally disabled is extremely limited. These services are traditionally provided by community agencies, mostly non-profit organizations, that specialize in programs for developmentally disabled adults.
- C A legal issue that may arise from the implementation of this statute is that mandatory exclusion from managed care applies only to developmental disability service programs, not to other service programs for the disabled. More generally, the mandatory provision of different, and arguably superior services, as a matter of state law rather than by federal regulation, to one population to the exclusion of others, raises a serious constitutional and civil rights issue.
- C Early in managed care(Salud) discussions it was decided that inclusion of too many disability-specific services would jeopardize cost containment measures. As a result, these services were to be excluded during the implementation stage until Salud! could demonstrate its cost-effectiveness.

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- HB 211 would prevent the inclusion of services specific to developmental disabilities in a Medicaid system for managing care from ever taking place. Exclusion is not in the best long-range interest of the state as it may preclude adoption of cost-effective best practices.

AMENDMENTS:

The following amendments are suggested by the Health Department:

Amend the new language to remove state general funded services to adults and children from the list of excluded services.

Change language to more accurately reflect programs/services for young children to read:

[Lines 18-25]

D. The department shall exclude from the provisions of this section intermediate care facilities for the mentally retarded, developmental disability in-home and community-based waiver services, *early intervention (special rehabilitation services for children with or at-risk for developmental delay)*, *early intervention case management (for children with or at risk for developmental delay)*, and developmental disability services for children and adults funded exclusively from the general fund.

BT/ar/njw