NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

F I S C A L I M P A C T R E P O R T

SPONSOR: Feldman DATE TYPED: 02/25/01 HB

SHORT TITLE: Separate Mental Health Services SB 641/aSFl#1/aSFl#2

ANALYST: Dunbar

APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB211and SB626
Relates to SB648

SOURCES OF INFORMATION

Health Policy Commission
Human Services Department (HSD)

SUMMARY

Synopsis of SFl#2 Amendment

Senate Floor Amendment number 2 amends SB641 by striking the emergency clause provision.

Synopsis of SFl#1 Amendment

Senate Floor Amendment number 1 amends SB 641 by :

- Changing the language from shall to may in excluding nursing homes, intermediate care facilities for the mentally retarded and community-based waiver services from the managed care system.
- Adding language in the exclusion section from the managed care system to include residential and community-based mental health services for children with serious emotional disorders. The bill does provide for services excluded under this section to be provided under a separate managed care program.

Synopsis of Bill

SB 641 amends the Public Health Assistance Act, Section 27-2-12.6 NMSA to exclude mental and behavioral health services from the provisions of the section, allowing for a separate contract to provide those services under a managed care program. The bill has an emergency clause.

Significant Issues

SB 641 mandates that mental and behavioral health services be excluded from managed care, unless these services are furnished under an agreement or contract separate from any agreement or contract for physical health services. The Human Services Department (HSD) would have to separate the budgets and administration of mental and behavioral services from physical health services in the Medicaid program.

SB 641 provides for contractors to use uniform criteria and forms for credentialing providers, level of care determination, utilization review decisions, billing, appeal and grievance. It established a provision for considering the recommendations of consumers, advocates, providers and other persons when developing any managed care plan to include mental and behavioral health services.

HSD speaks against the provisions of the bill and offers the following comments:

- SB 641 removes the flexibility of the Executive branch to determine which services are included in managed care.
- SB 641 would significantly limit innovative funding schemes for persons with developmental disabilities or with HIV.
- Separate contracts or agreements restricts the Executive branch from determining the most appropriate delivery system to be used and leads to a fragmented clinical approach(affecting the primary care physician, data information flow and administrative efficiencies) which is not in the best interests of the Medicaid consumer.
- The department is going to require that contractors utilize a uniform credentialing form, and that contractors and subcontractors use consistent forms for daily operations. Federal regulations and state policy already dictate the uniform requirements contractors must adhere to concerning appeals and grievances.
- The department seeks input and recommendations from other consumers, advocates, providers, and other state agencies. There is a formal Ad Hoc Advisory Group to advise HSD on mental and behavioral health care delivery. Input is also received from the Medicaid Advisory Committee (MAC).

HSD suggests that SB 641 take into account steps already taken to address the issues raised in SB 641 as well as the impact on consumers and providers.

PERFORMANCE IMPLICATIONS.

HSD states the a new Requests for Proposals (RFPs) and contracts would need to be developed. The department also adds that they would experience difficulty in monitoring contracts and ensuring adequate access to services and continuity of care when clients move from one part of the state to another.

FISCAL IMPLICATIONS

HSD states that the department would need additional funds for more staff positions to implement, manage, and monitor separate behavioral health managed care plans; capitation rates would be difficult to determine because of an overlap of some benefits and any increase in cost could jeopardize staying within the managed care upper payment limit (UPL) formulated by the Health Care Financing Administration (HCFA) affecting matching federal funds.

However, HSD does not provide a cost estimate for this legislation.

ADMINISTRATIVE IMPLICATIONS

HSD indicates that new contracts would need to be written with additional and separate contract payment negotiations. Actuarial consultants would be necessary to determine appropriate payment methodologies and rates.

CONFLICT//RELATIONSHIP

Conflicts with:

HB 211, Medicaid Managed Care Program Exclusions, Public Health Assistance Act, Section 27-2-12.6, C: leaves in **may** exclude nursing homes… and adds a Section D that differs from SB 641.

SB 626, Mental Health Fee-for-Service Arrangements, Section 27-2-12.6, leaves in **may** exclude, and adds its own part Section D.

Relates to SB 648, Consult Legislature for Medicaid Changes, which addresses the same Section.

OTHER SUBSTANTIVE ISSUES

HPC provide the following analysis in 2000 regarding foster care,

- As a result of Medicaid managed care and financing changes, several NM child and adolescent behavioral health residential facilities closed, leaving large service gaps and severely straining treatment foster care and other service modalities, resulting in numbers of unserved children, waiting lists, and inappropriate placements.
- Providers, advocates, and consumers have requested that treatment foster care programs be excluded from managed care program because of the long term, and typically family based nature of the service which are difficult to adequately reimburse through a capitated mechanism.
- Furthermore, behavioral health advocates and treatment providers have argued that the behavioral health managed care system is burdensome and hinders optimal treatment of Medicaid clients.
- The exclusion of treatment foster care services from Medicaid managed care may result in a higher level of quality of care for children in the treatment foster care programs, in that fee for service payments may result in more comprehensive reimbursement for actual costs of providers.

According to HPC several states are dividing responsibility for mental health services among HMOs, traditional fee-for-service providers, and in some cases, county-based mental health authorities. California, Florida, and Michigan provide some mental health services on a capitated basis and either

exclude all community-based care from capitated programs (Florida) or set explicit utilization limits on inpatient and outpatient services. This situation can create concerns about care coordination, especially if different sets of providers are unclear about who carries the ultimate responsibility for mental health services. (Urban Institute, 1998)

In addition HPC says that twenty-three percent of American adults (ages 18 and older) suffer from a diagnosable mental disorder in a given year, but only half report impairment of their daily functioning due to the mental disorder. Six percent of adults have addictive disorders alone, and three percent have both mental and addictive disorders. (NAMI)

BD/ar/njw