

FISCAL IMPLICATIONS

House Bill 322 contains a recurring appropriation of \$4.8 million from the general fund. Any unexpended or unencumbered balance remaining at the end of FY14 shall revert to the general fund.

The Department of Health indicates it would use a minimum of 5 percent of the amount appropriated for the department's administrative overhead costs associated with administration of the program.

The Human Services Department (HSD) indicates additional federal Medicaid match could be generated totaling \$10.8 million in FY14. The current DD Waiver Program service rates have been established through an extensive rate study, conducted between 2010-2012, that involved input from DD waiver services providers and organizations. In many cases, reversions of new service rates back to 2011 levels could decrease rates for some groups of DD service providers, as new rates have factored in special adjustments for non-metropolitan areas and scarcity of some types of service providers. Additionally, special review and authorization from the federal Center for Medicare and Medicaid Services (CMS) has already established required federal funds projections for the DD Home and Community-Based Waiver Program. Further rate modifications/changes will require new federal CMS authorization.

The FY13 operating budget for the Department of Health's (DOH) Developmental Disabilities (DD) Medicaid Waiver Program includes a total of \$94.4 million for the DD Waiver. For FY14, the LFC budget recommendation for the DD waiver includes an additional \$4.6 million in general fund revenue for DD Waiver services for people on the waiting list, and the Executive recommendation includes an additional \$5 million for the same purpose.

SIGNIFICANT ISSUES

The Department of Health (DOH) indicates the goal of HB322 is to restore rates that existed prior to a five percent rate reduction for Developmental Disabilities (DD) Waiver services implemented by the DOH in 2011. Prior to the cost containment implemented by the DOH, the cost to administer the DD Waiver was growing at an unsustainable rate. Since FY06, the average annual cost per individual increased from \$66,831 to \$77,457 in FY10. In FY09, New Mexico ranked sixth in the nation for the average cost per person for waiver services. The national average cost per individual in FY09 was \$56,650 (Lakin, et al., *Residential Services for Persons with Developmental Disabilities: Status and Trends Through 2009*).

As the cost to provide services to individuals on the DD Waiver continued to increase, the demand for services also increased. Currently, there are approximately 6,000 individuals waiting for services and the average length of time an individual waits for service is 11 years. As of December 31, 2012 there are 3,714 individuals receiving services on the DD Waiver compared to the approximately 6,000 individuals waiting for services.

Without the cost containment measures of reducing provider rates by 5 percent, the projected average cost per person would have increased from \$80,989 in FY11 to \$89,670 in FY13 compared to the current average cost per person is \$73,333. The total program cost (state and federal) without cost containment for all persons served on the DD Waiver would have been \$343,525,770. At this rate, to stay within budget limitations, the DOH would have had to take

280 individuals out of services over a three year period. In addition to taking 280 individuals out of services, the time individuals wait for services would have been impacted, and the program costs would have been unsustainable.

After DOH reduced provider rates for the DD Waiver in 2011, the DOH submitted the DD Waiver renewal application to the Centers for Medicare and Medicaid Services (CMS). The DOH was required to conduct a rate study as one of the conditions of the state's submittal to CMS. Prior to this time, it had been approximately 10 years since DOH had conducted a comprehensive rate study on DD Waiver services to ensure reimbursement rates are fair to both providers and the state.

The DD Waiver services are delivered through a contracted network of providers. These providers are reimbursed according to a published fee schedule that lays out the rate for each service and ensures that all providers are paid the same rate for delivering the same service.

ADMINISTRATIVE IMPLICATIONS

The Human Services Department (HSD) indicates the bill would introduce major modifications to what are already authorized service rates for DD Waiver Program services. These proposed rate changes will require regulation changes, fiscal reimbursement system re-programming changes and another submission to the federal Centers for Medicare and Medicaid Services (CMS) authorities for an amendment to the state's DD Waiver Program.

Under the provisions of the bill, the HSD would be taking on unplanned fiscal system programming changes to modify rates/reimbursement levels to prior 2011 levels. Staff efforts dedicated to DD Waiver amendment, regulation changes, supplement publications and distribution include additional administrative costs that would result from making these modifications.

The DOH indicates the bill would require the department to submit a waiver amendment to the federal Centers for Medicare and Medicaid Services (CMS), revise the Medicaid DD Waiver regulations, DD waiver fee schedule, and DD waiver service standards. Changes to the budget sheets, and modifications to the Medicaid Management Information System (MMIS) would also be necessary. All of these necessary changes would increase the workload of the DOH.

OTHER SUBSTANTIVE ISSUES

As part of the rate study conducted in the summer and fall of 2011, the DOH convened a Rate Study Steering Committee made up of DD Waiver provider representatives to work with an independent national consultant experienced in setting home and community-based waiver service rates for individuals with developmental disabilities. Additionally the initial draft rates were subject to review by stakeholders and modified in response to this input. The rate development process took more than a year to complete. The rates established through this process included data obtained from providers through a provider survey and included extensive public meetings as well as a comment period which led to revised rate models. In addition to the providers' survey, the contractor reviewed Bureau of Labor data and state salary ranges for similar work. The contractor also reviewed and modified rates to address New Mexico-specific service requirements. The conclusion of the rate study resulted in the establishment of rates that are fair and sustainable. Across the service system some rates were reduced, some were

increased, and others were modified to meet federal provider system billing claims requirements. For example, rates for customized community support and respite were increased significantly, while rates for residential services and center-based day programs were reduced. Supported employment rates were modified to a 15 minute unit to comply with Medicaid claiming requirements. The final rates resulting from this process were published in a revised fee schedule by the Human Services Department. This publication included a 30 day formal comment period prior to the adoption of the final rates. Overall the outcome of the study supported most rates at or near the current levels established through the 2011 cost containment implemented by the DOH.

To date, the DOH has not placed anyone into service using the new rates. The DOH intends to phase in the revised fee schedule as one component of the service planning required for implementation of the budgeting system to serve individuals on the new DD Waiver system. Specifically, individuals will transition to the new system beginning in May 2013 as their annual service planning meetings occur. As they receive services under this system, providers will be paid according to the revised fee schedule.

RAE/blm