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FISCAL IMPACT REPORT

SPONSOR: Lyons DATE TYPED: 03/02/01 HB _____
 SHORT TITLE: Abolish Human Services Department SB 724
 ANALYST: Dunbar

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 135;HB 846; HB845;HB 915; SB 82

SOURCES OF INFORMATION

Human Services Department
 Children Youth and Families Department
 Department of Labor
 Department of Health
 Health Policy Commission

SUMMARY

Synopsis of Bill

Senate Bill 724 (SB 724) would abolish the Human Services Department (HSD) and move the various divisions within HSD as follows:

- Medical Assistance Division (MAD) to the Department of Health (DOH)
- Income Support Division (ISD) to the Department of Labor (DOL)
- Child Support Enforcement Division (CSED) to Children Youth and Families Department (CYFD).

In addition, it would amend the Indigent Hospital and County Health Care Act to expand the definition of health care provider to include services provided in a hospital or outpatient setting by a licensed physician, dentist, optometrist or expanded practice nurse that are necessary to alleviate life-threatening conditions or conditions that threaten permanent disability.

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The bill requires all three departments to provide a fair hearing for applicants who have been denied services by the respective assistance programs they administer. NMSA 27-3-3

The bill adds a definition for Commission to apply to the New Mexico Health Policy Commission (HPC). NMSA 27-5-4-Q

Significant Issues

The Children, Youth and Families Department (CYFD) becomes the federal Title IV-D agency for the purpose of submitted a state plan to receive federal reimbursement for providing a system to collect child support payments. This would in essence have one state agency, CYFD, be responsible for all direct services for children in New Mexico. All of the existing functions of the child support enforcement divisions would be carried out under the auspices of CYFD.

DOH comments that the proposed reconfiguration of state health functions(includes Medicaid) would allow maximization of the state's purchasing power for publicly-funded health services and would result in a more effective expenditure of resources, funding and FTE. It would begin to consolidate health financing, health policy development and health services in one agency.

DOL believes that the transfer of Income Support Division programs to DOL would shift the emphasis from keeping people on welfare support to training them and placing them in jobs which furthers state and federal mandates. DOL states that the programs would operate through the one-stop service delivery system which has been established through DOL under Workforce Investment Act(WIA). DOL further says that the dollars currently used for the entitlement system would also be transitioned to eliminating barriers to people being qualified for and finding jobs.

However, DOL must still administer the TANF cash assistance program, and the department will not be able to transfer TANF funds identified for cash assistance for purpose of eliminating barriers to employment. The amount of TANF funds that support employment programs and are listed in HB2 and have been in the legislative process.

HSD listed the following concerns associated with the transfer of program:

- Section 37 of Section 27-2-25 NMSA 1978 would be amended to designate MAD of DOH to administer the funeral assistance program. This program is 100% state funded not Medicaid-funded and is currently administered by ISD rather than MAD.
- Section 69 of Section 27-12-4 NMSA 1978, would be amended to task the Secretary of DOH to design and implement the State Children's Health Insurance Program (SCHIP), (Title XXI) program in consultation with DOL and CYFD. It should be noted that the SCHIP (Title XXI) program has been designed and implemented since March of 1999.
- SB 724 would, if enacted, impact the Debra Hatten-Gonzales (DHG) Settlement Agreement, to which HSD has been a party since this federal class action suit was filed in 1988. The settlement of this federal suit imposed upon the HSD's food stamp and Medicaid programs (as well as the cash assistance program until 1998) 100% compliance with federal application processing time standards, prompt eligibility decisions, and notice requirements, among other things.

- HSD further elaborates that if SB 714 were enacted to shift the Medicaid and food stamp programs to DOH and DOL respectively, an amended Agreement would be required. Furthermore, the requirements of the Agreement concerning the Medicaid program would be difficult for DOH to implement, even with the transfer of Medicaid personnel, since they have been met through ISD2 system changes, HSD forms, and ISD field offices, which would be transferred to DOL.
- HSD anticipates many problems arising pertaining to coordination efforts of programs that may effect federal funding of the TANF, child support, food stamp and Medicaid programs

PERFORMANCE IMPLICATIONS

HSD expresses concerns over the single state agency designation that it has been assigned pursuant to Section 9-8-12 NMSA 1978 and 42 CFR 431.10 to administer the Medicaid program on a statewide basis and obtain federal matching funds to support that program. HSD reports that it may not transfer its accountability to DOH or any other state agency. Under federal and state law and the state Medicaid plan, HSD, as the single state Medicaid agency, is ultimately accountable for the operation of the state's Medicaid program. That accountability cannot not be transferred to DOH or any other state agency, just as the authority of HSD, as the single state agency, to draw down the federal matching funds may not be transferred to DOH or any other state agency. The state, however, can apply to change the single state agency designation.

For the calendar year 2000, the following marked performance improvements were noted by HSD for each division:

- ISD: Temporary Assistance for Needy Families (TANF) caseload dropped 11%, with those leaving assistance finding jobs that pay, on average, slightly better than the national average for those leaving TANF. Food stamp utilization rate ceased tracking with TANF rate and registered modest gains despite TANF drop.
- CSED: Achieved major new computer systems' federal compliance, ahead of all but four other states. CSED increased collections by 15% and has a paternity establishment rate that is among the best in the country.
- MAD: Enrolled 16,000 additional clients in Medicaid, 12,000 of them children -- up 7%; brought physician compensation up from 65% of Medicare to 95%; and pushed Early, Periodic, Screening, Diagnosis, and Treatment (EPSDT) program to over 65% -- more than double the rate achieved before Salud!

FISCAL IMPLICATIONS

CYFD and DOH report no additional costs associated with the transfer of programs. DOL acknowledges that the transfer will initially cost money but the department does not provide a number.

From information received from other departments involved in the transfer of programs, it can be assumed that additional cost associated with the transfer and the integration of programs will occur.

DOL mentions that money may have to be allocated to equalize disparate salaries between the existing departments and newly transitioned employees from HSD so that there is parity among positions.

HSD says that any detraction from current effort to restore federal confidence in New Mexico's ability to bill HCFA lawfully for Medicaid in the Schools (MITS) could result in outright rejection of funding match and could cost the state \$15 million in general fund.

ADMINISTRATIVE IMPLICATIONS

HSD lists the following implications associated with the transfer:

- HSD's support divisions would need, at least to a considerable extent, to be apportioned to the other agencies. General Counsel attorneys with experience in on-going HSD litigation or existing consent decrees, et al, might be assigned on a rotating basis among CYFD, DOH, and DOL.
- Coordination between the Navajo TANF and other tribal programs is complex. Tribal TANF benefit issuance and system interface is critical for correct eligibility determination for food stamp and Medicaid eligibility.
- The Administrative Services Division's Cost Allocation Bureau, which draws down or bills federal money at a variety of matching rates under an array of varied circumstances, would either have to be apportioned at some level of redundancy or somehow triplicated.
- The Office of the Inspector General – which monitors such varied compliance requirements as the food stamp error rate and Medicaid fraud – would need to be apportioned. In each instance, a currently realized economy of scale or symbiosis would be lost. Offsetting gains in coordination at the recipient agencies would need to be weighed against this loss.
- HSD's Personnel Bureau likewise enjoys an excellent record of sustaining personnel actions and has recently achieved State Personnel Office mandated distribution of PAD ratings throughout HSD.
- Perhaps most importantly, HSD's Information Systems (IS) team is currently leading an inter-departmental initiative among the social services agencies to finally deliver the long sought one-stop-shop via the world wide web. The LFC recently described HSD's initiatives in this regard as "magic," and every care should be taken to ensure that this work not be lost in the reorganization. The intermediate term goal is an array of state government services that are seamless to the customer and that eliminate the multiple trips and destinations a social services customer must usually make to access assistance from various agencies.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

SB 135 and HB 846 are duplicate bills that would establish a separate Medical Assistance Department;

HB 845 would move the Medical Assistance Division to the Department of Health; and

HB 915 would move a variety of programs addressing the elderly into a new Adult Services Department.

SB 82 duplicates the provisions in SB 724 that would amend the definition of health care provider in the Indigent Hospital and County Health Care Act.

TECHNICAL ISSUES

40-4B-4 provides that the child support hearing officers would be employees of CYFD. Yet, the Administrative Office of the Court is responsible for selecting those employees. Consolidation of the child support hearing officers should be shifted completely to the Administrative Office of the Courts. That way there is no conflict between the mission of the child support enforcement officers and the hearing officers through the complete separate of these functions.

The bill improperly includes Worker's Compensation under the divisions transferred to DOL. Worker's Compensation is not currently under DOL and should not be affected by this bill.

The confidentiality and exchange of information provisions at pps. 130-39 may need to be modified to better explain the exchange of information. As the provisions are now written, DOL is exchanging information with its own newly added division.

OTHER SUBSTANTIVE ISSUES

DOH supports the merger of the Medical Assistance Division into DOH as it would wed the financing arm of state health care with the policy-making entity. Such a consolidation would result in considerable opportunities for improving efficiency and effectiveness in the delivery of health services to the low-income and specialty populations. DOH adds that a consolidation would also significantly increase the purchasing power of the state and afford increased opportunities to acquire even greater efficiencies in addressing such issues as the large percentage of New Mexicans who are uninsured.

HPC provided the following information:

- There are precedents in 6 other states for having Medicaid report to the Department of Health, but no precedents for the decentralized model proposed in SB 724 which divides statutory authority among three state departments.
- For the new decentralized organizational structure to succeed, significant cultural change will be needed. The movement to decentralized operations through the breakout of HSDs responsibilities into three departments will require significant adaptation and cultural change. To be successful, the proposed reorganization will require that all three departments develop a shared mission, vision and values. There must be extensive teamwork and collaboration among the agencies involved. Protection of turf and empire building will ensure failure.
- SB 724 does not specify the manner of the transition or abolition of HSD, nor appropriate any costs associated with the orderly reorganization and break-up of the responsibilities of the most complex agency in state government. SB 724 does discuss the transfer of personnel, appropriations, money, records, supplies, and property on the day the act is effective. There is no inter-agency planning committee or other organizational structure to facilitate the proposed transfer.
- It is possible that the break-up of HSD into three separate departments may adversely affect client and provider services. Joint power and operating agreements will need to be negotiated with careful planning and oversight to avoid exacerbating the problems that HSD has already been experiencing.

WD/sb