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FISCAL IMPACT REPORT



SPONSOR: Thompson DATE TYPED: 2/9/02 HB 11/aHGUAC

SHORT TITLE: Medicaid for Convicted Drug Offenders SB _____

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			\$150.0	Recurring	TANF Block Grant
			\$0.1 See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 129

SOURCES OF INFORMATION

Responses Received

- Department of Health (DOH)
- Human Services Department (HSD)
- State Department of Education (SDE)
- Public Defenders Department (PDD)

SUMMARY

Synopsis of HGUAC Amendment

The amendment clarifies the language in the “title” section of the bill. By substituting the word “certain” in lieu of “Medicaid” the amendment covers both cash (TANF) benefits and for some eligible persons Medicaid benefits as well (see below).

As stated in “Significant Issues” below, the amendment of the language in the cash assistance section of the New Mexico Works Act would not automatically confer Medicaid benefits on convicted drug offenders. Nonetheless, it appears from department estimates that a majority of these individuals will become eligible for Medicaid benefits through their eligibility in the TANF program.

By using the words (title of the bill) “certain benefits and services” that will be available to convicted drug offenders makes it unclear whether HB 11 in addition to cash assistance intends to eliminate the ineligibility requirement for either or both Food Stamps and Medicaid (expands the program beyond TANF /cash assistance). If it *is* intended that HB 11 eliminate one or both of these requirements, the bill should be amended to change the relevant section or sections of current law. If however, the sponsor of the bill wishes to address the eligibility for cash assistance benefits and for some individuals Medicaid eligibility (attached to cash assistance eligibility) the language suffices. A conversation with MAD staff provided additional information on Medicaid eligibility for convicted drug offenders who would be eligible for cash assistance. MAD indicated that the department would address the eligibility for Medicaid through the regulation process.

Synopsis of Original Bill

House Bill 11 amends the New Mexico Works (NMW) Act Section 27-2B-11-A(9), NMSA 1978. It deletes the five-year prohibition against persons convicted of a drug related felony from receiving TANF (Temporary Assistance to Needy Families) under the New Mexico Works Act. HB11 expands benefit group eligibility under the NM WORKS ACT to these individuals. If approved for TANF, these individuals may also be eligible for Medicaid (see below).

A new provision of the federal Personal Responsibility and Work Opportunity Act of 1996, 21 U.S.C. Section 862a(d)(1)(A), allows a State to exempt all persons domiciled in that State from the application of 21 U.S.C. Section 862(a), the general denial of assistance and benefits for drug-related convictions.

Significant Issues

The language that would be amended by HB 11 falls under the TANF section of the statute rather than the Medicaid statute. HSD notes that the Medicaid Eligibility section of the statute would not be amended. The department points out that the current language in the Medicaid Eligibility section of the Act would not automatically provide for Medicaid eligibility if this bill should pass. Language in this section provides that for the Medicaid category JUL Medicaid, “the income eligibility criteria shall be the same as the income eligibility criteria set forth in the New Mexico Works Act”. Thus, being a member of the cash assistance benefit group would not result in automatic Medicaid eligibility. However, HSD is projecting an increase in Medicaid costs (see fiscal implications below).

Twenty-nine states have currently opted to waive this limitation on benefits as provided in 21 U.S.C. Section 862a(d)(1)(A). Ensuring benefits for persons convicted of drug-related offenses is often important to individuals transitioning back into the community and remaining in drug treatment programs.

PERFORMANCE IMPLICATIONS

One of the performance measures of the Medical Assistance Division (MAD) is the number of individuals enrolled in Medicaid. HB 11 could increase the number of individuals eligible for Medicaid if a regulation change is made.

FISCAL IMPLICATIONS

This bill does not provide for an appropriation. HSD believes that nearly 200 individuals could potentially become eligible for Medicaid and enroll at a cost of over \$720.0 per year (this number includes both state and federal dollars). The cost would only occur if HSD changed its Medicaid policy through regulation.

HSD did not address the costs of expanding the TANF program due to this change in the NM WORKS ACT. However, in a previous “Welfare Oversight Committee Hearing” the department staff testified that 100 to 130 individuals would become eligible if the NM WORKS ACT was amended to allow drug convicted felons to participate in the TANF program. The cost for the TANF program provided at the hearing was approximately \$150.0

ADMINISTRATIVE IMPLICATIONS

HSD would have to go through the usual administrative process required to revise or implement TANF/ Medicaid eligibility, including but not limited to promulgation of regulations, revision of the state plan, worker training and outreach. Implementation of such changes takes a minimum of 90-120 days.

RELATIONSHIP

HB 11 relates to SB 129, which would change current law in the same manner as HB 11, with a significant additional provision: SB 129 requires convicted drug offenders to submit to substance abuse assessment and, at the discretion of the Human Services Department, receive drug treatment services as a condition of Medicaid eligibility.

TECHNICAL ISSUES

Sponsors of the bill should consider revising the title of the bill as follows:

“Amending the New Mexico WORKS ACT to provide TANF benefits and services to convicted drug offenders.

As stated in “Significant Issues” above, the amendment of the language in the cash assistance section of the New Mexico Works Act would not automatically confer Medicaid benefits on convicted drug offenders. Nonetheless, it appears from department estimates that a majority of these individuals will become eligible for Medicaid benefits through their eligibility in the TANF program.

OTHER SUBSTANTIVE ISSUES

According to DOH, HB11 supports the DOH Strategic Plan, in that it assures timely access to an effective, consumer-driven, integrated continuum of services for adults with behavioral health needs and serves clients in the least restrictive and most appropriate setting in order to stabilize and improve the functioning levels of persons being served.

Moreover, DOH notes that HB11 also supports the Vision of Health indicators in the areas of “Breaking the cycle of substance abuse”, “Promoting healthy families”, and “Improving the quality of life of New Mexicans”. Specifically, this bill could impact reducing the drug-related death rate, and reducing other substance abuse-related indicators such as family violence and Hepatitis B rates.

The Public Defenders office notes that this bill is of particular assistance to women offenders who are caregivers and have children. PDO indicates that the women’s prison in Grants is filled with non-violent, addict mothers and by integrating these women into the community, prison costs savings of \$30,000 per year/per inmate could be realized.

BD/ar:pr