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FISCAL IMPACT REPORT

SPONSOR Beam DATE TYPED 2/6/2004 HB 58

SHORT TITLE Brain Injury Medicaid Waiver Program SB _____

ANALYST Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
\$2,000.0			See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Contingent upon approval of the Medicaid Waiver by the Center for Medicare and Medicaid Services.

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
\$6,000.0		Varies according to FMAP and expenditures	Recurring	Federal Funds

(Parenthesis () Indicate Revenue Decreases)

FMAP is the Federal Medical Assistance Percentage set by the federal government for Medicaid reimbursement. For FFY05 the rate is 25.56 percent state and 74.44 percent federal.

Duplicates SB 113

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Developmental Disabilities Planning Council (DDPC)

Human Services Department (HSD)

New Mexico Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

House Bill 58 appropriates \$2 million from the general fund to the Department of Health (DOH) for the purpose of establishing a brain injury Medicaid waiver program in cooperation with the Human Services Department (HSD). The bill contains an emergency clause.

Significant Issues

The New Mexico Brain Injury Association reports brain injury is the leading cause of death and disability for people under the age of 45. In 2001, there were 1,745 hospitalizations for treatment of traumatic brain injury, 455 deaths, and 618 people now living with a long-term disability due to brain injury. DOH reports that 9.7 percent of hospital discharges in 2000 had a primary diagnosis of traumatic brain injury.

DOH manages the Traumatic Brain Injury (TBI) program which provides short-term services. It is the payer of last resort and funding per individual is limited to no more than \$25,000 per year and \$75,000 maximum per individual. Services are limited to those with the most urgent needs. The TBI fund receives approximately \$1.7 million annually from a portion of fines for speeding tickets.

HSD provides the following analysis:

1. Individuals with brain injury, who meet medical and financial eligibility requirements, can be eligible for any of the Home and Community Based Service (HCBS) Waivers including the Disabled and Elderly Waiver, Developmentally Disabled Waiver and Medically Fragile Waiver services. Individuals with brain injury are not excluded from any of the waiver programs. Any of these programs provide a cadre of services to support individuals with brain injury in their homes and communities. When an individual is eligible for waiver services, they become eligible for general Medicaid services. The combination of waiver and general Medicaid services usually meet the comprehensive needs of waiver clients that would include individuals with brain injury.
2. HSD is facing budget cuts for existing Medicaid programs including existing Medicaid waiver programs. Establishing a new Medicaid waiver program in light of current Medicaid cuts is problematic for HSD.
3. HSD is responsible for all Medicaid programs and must process the waiver request through the Department of Health and Human Services, Centers for Medicare and Medicaid. The waiver application and approval process is lengthy and requires very specific program and financial parameters. No background work has been done to plan for a brain injury waiver. It is unlikely the waiver could be approved during the remainder of FY04.

House Joint Memorial 52, Forty-Sixth Legislature, First Session, 2003, *Track Brain Injury Information*, recommended a community-based brain injury waiver be requested for Medicaid to help defer the cost of long-term care. The New Mexico Brain Injury Association estimates an-

nual cost for treatment can average \$40 thousand and that approximately 3,500 individuals may be eligible for a waiver program. DDPC estimates the \$2 million appropriation could provide services to 200-250 people on a waiver program.

The New Mexico Brain Injury Association states the Developmental Disability and Disabled and Elderly Medicaid waiver programs do not provide the services needed by individuals with brain injuries. In addition, the eligibility requirements often exclude people with brain injury. As a result, 23 states have developed Medicaid brain injury waivers.

FISCAL IMPLICATIONS

The appropriation of \$2 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the general fund.

As part of the Medicaid waiver process, use of the TBI fund as a match source should be considered which could reduce the initial general fund amount required.

As shown in the Revenue table above, the \$2 million could result in an additional \$6 million in federal funds.

This waiver program could result in significant general fund cost increases in the out-years. Using the New Mexico Brain Injury Association estimate of 35 individuals yearly being eligible for the waiver and a cost of \$10 thousand in general fund per individual results in an estimated annual cost growth of \$350 thousand to the general fund. This would be an approximately 17 percent growth annually. Since Medicaid programs are generally considered as an entitlement and use of waiting lists are discouraged, the cost growth potential in this program could be considerable as has occurred in the Medicaid developmental disability (DD) waiver and in the Medicaid personal care options.

HSD states that 450 individuals are receiving TBI services through DOH. While it is not possible to estimate how many of these individuals would qualify for this waiver program, if they all qualified it would immediately double the general fund cost needed for this waiver.

TECHNICAL ISSUES

DOH points the bill does not specify how much of the appropriation may be used for administrative expenses related to developing the waiver. HSD is concerned about adding this program without funding and FTEs for administration of the program. The bill should be amended to provide for these costs.

OTHER SIGNIFICANT ISSUES

The TBI program administered by DOH will transfer on January 1, 2005 to the Aging and Long-Term Services Department if House Bill 34 or a similar bill is enacted during the Second Session of the 46th Legislature.

POSSIBLE QUESTIONS

1. What other options are available to provide care for individuals with brain injury?
2. What cost containment mechanism can be built into the waiver program?
3. What are the consequences of not enacting this bill?
4. Can the TBI fund be used to reduce the initial appropriation from the general fund?
5. What additional services are envisioned for the waiver program that is not available through existing Medicaid programs?
6. Should a new Medicaid waiver program be initiated at the time when the Executive is recommending cuts in the existing program?

GAC/prr:lg:njw:yr