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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/08

SPONSOR B. Lujan LAST UPDATED _____ HB 391

SHORT TITLE Medicaid Dental Services Deduction SB _____

ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	(762.6)	Recurring	General Fund
	(1,859.8)	Recurring	Federal Funds

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(1,547.2)	(1,624.6)	Recurring	General Fund
	(1,075.2)	(1,129.0)	Recurring	Local Governments

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
Health Policy Commission (HPC)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

House Bill 391 would create a new gross receipts tax deduction for receipts for provision of dental services to Medicaid patients that are not otherwise deductible. Dental services are defined as services provided to a licensed dentist or dental hygienist. The effective date of the bill's provisions will be July 1, 2008.

FISCAL IMPLICATIONS

HSD reports that gross receipts tax paid by Medicaid to dental providers was \$2,378.6 thousand in FY07. Although HSD reports that the amount of dental provider services paid by Medicaid has been fairly stable, LFC expects the fiscal impact of the proposed deduction to grow as enrollment in the program grows and the statewide effective tax rate grows higher. Assuming growth of 5 percent per year, the bill would reduce gross receipts tax revenue by \$2,622.4 thousand in FY09. Of that revenue loss, 59 percent would accrue to the general fund and 41 percent would accrue to local governments.

The deduction would allow Medicaid appropriations to decline by the same \$2,622.4 thousand in FY09. Because 70.92 percent of Medicaid appropriations for dental services are paid by the federal government, \$1,859.8 thousand of the appropriation reduction would be from reduced federal funds, and the remaining \$762.6 thousand appropriation reduction would be from the general fund.

SIGNIFICANT ISSUES

DOH and HPC report that New Mexico currently has a shortage of dental service providers, especially in rural areas. New Mexico ranks 49th among the states in the number of dentists per capita. In 2006, the state had 882 active, licensed dentists and 812 active, licensed dental hygienists. HPC reports that in 2006, there were no active, licensed dentists in Catron, Guadalupe, Harding and Mora counties. The number of dental service providers serving Medicaid patients is minimal.

Proponents of this legislation note that recruitment and retention of health providers has been difficult in New Mexico because of the gross receipts tax. Economic theory suggests that a shortage of healthcare labor will push healthcare wages, and therefore healthcare costs higher. Although much of this problem was addressed in 2004 when Section 7-9-93 NMSA 1978 was enacted, some healthcare practitioners in New Mexico still pay gross receipts tax, while their counterparts in most other states do not. Unlike many businesses that are subject to gross receipts tax but pass the tax on to consumers, many health providers cannot pass the tax on because managed care organizations and Medicare refuse to pay the tax.

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on TRD is expected to be minimal.

TECHNICAL ISSUES

HSD reports that the Centers for Medicare and Medicaid Services (CMS) could find this provision to be in violation of the hold harmless rule resulting in disallowance of federal funding.

It is unclear why the bill proposes to remove the gross receipts tax burden from dental services provided to Medicaid patients but not for other medical services provided to Medicaid patients. HSD reports that if dental service providers are treated preferentially, other providers may raise denial of equal protection issues. For a classification under tax laws to satisfy constitutional requirements, there must be a rational basis.

SS/bb