F I S C A L I M P A C T R E P O R T

ORIGINAL DATE 2/9/09
SPONSOR Gonzales **LAST UPDATED** **HB** 372

SHORT TITLE Adjust Direct Service Provider Cost-of-Living **SB**

ANALYST Chabot

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	**FY10**		
	Indeterminate but Substantial	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 448
Relates to HB 270, Community-Based Waiver Program Cost-of-Living
HB 310, Medicaid Waiver Cost-of-Living Increases
HB 385, Disability and Disability and General Fund Program Rate Equity
SB 301, Disability and General Fund Program Equity
SB 449, Medicaid Waiver Cost-of-Living Increases
Relates to Appropriation in the General Appropriation Act

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$5.8 million	$5.8 million	$11.6 million	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
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 372, Adjust Direct Service Provider Cost-of-Living, requires DOH to include in its annual appropriation request, an annual cost-of-living increases, based on the federal Centers for Medicare and Medicaid Services' (CMS) intermediate care facilities for the mentally retarded market basket index inflation factor for services provide by contracts or agreements for the family infant toddler program, the developmental disabilities Medicaid waiver program and the state general fund program. The cost-of-living adjustment shall be used to improve staff recruitment and retention and to meet increased programmatic and operational costs of quality service.

FISCAL IMPLICATIONS

The bill has no appropriation but DOH calculates the impact of including a cost-of-living increase would be approximately $5.8 million each year.

SIGNIFICANT ISSUES

The LFC submitted a balanced general fund appropriation recommendation for fiscal year 2010. Any additional general fund expenditures appropriated by the Legislature must be off-set by an equal amount from the appropriation recommendation.

According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is $293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

DOH states if this bill is enacted and the department receives no additional appropriations, it would have to reduce clients served by the program. In addition, cost-of-living increases are specified for only DOH administered programs but not those administered by other agencies such as the Aging and Long-Term Services Department. The bill requires the cost-of-living adjustment be used to improve staff recruitment and retention and to meet increased programmatic and operational costs of quality service. It may be difficult to enforce this requirement as these are contract providers.

HSD reports the market basket index inflation factor ranges from 3 to 4 percent each year. HSD is responsible for setting the provider rates and has used to following criteria in the decision process:

- Historical increases;
- Promoting preventive care;
- Establishing parity among rates paid for similar services;
- Provider costs:
- Providers' dependence on Medicaid as a funding stream; and
- Rates as compared to Medicare.

In additions HSD assess “Having an automatic rate increase in statute removes all flexibility that an agency might have to respond to changing budgetary exigencies and environmental demands.”
DFA states “HB 372” would obligate the state to request rate increases each year, whether or not additional state General Funds are available.” Without an appropriation for rate increase each year, the bill could extend the wait time for individuals to get on the waiver or general fund programs.

DDPC assess the “agencies have worked to provide standard reimbursement rates for similar services. This bill is contrary to this standardization work and passage would result in a prejudicial increase in a specific service delivery.” “Livable wages and benefits should be provided to <u>all</u> direct care staff…”

TECHNICAL ISSUES

The last sentence (page 2, lines 7-9, should be rewritten so it is a requirement on providers receiving cost-of-living increases and not DOH.

OTHER SUBSTANTIVE ISSUES

Any rate increase is subject to CMS approval of the amendments to the waiver. This approval process could delay implementation of the proposed annual increase.

POSSIBLE QUESTIONS

1. Should all waiver programs be included in the legislation?
2. What if additional revenue is not available to fund the increase?

GAC/mt