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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/09

SPONSOR Harden LAST UPDATED _____ HB _____

SHORT TITLE Assistance Program Eligibility Consolidation SB 36

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	Potential loss of federal funds (see fiscal implications)		Recurring	Federal Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department

Children, Youth and Families Department

SUMMARY

Synopsis of Bill

Senate Bill 36 amends the New Mexico Public Assistance Act and the New Mexico Works Act to require the Human Services Department (HSD) to consider an applicant's eligibility for every program of financial support under the Public Assistance Act. The bill also expands the eligibility for child care subsidy for those eligible to receive funds through the Temporary Assistance for Needy Families (TANF) program.

FISCAL IMPLICATIONS

According to CYFD, this bill could increase the number of persons on a Child Care Assistance program (CCA) waiting list. This bill could also result in an unfunded mandate and possible violation of federal Child Care Development Fund (CCDF) regulations, which could impact federal funding stream availability.

According to HSD, the department trains its staff to screen every application for potential eligibility for all programs administered under the Public Assistance Act. Additionally, HSD makes referrals to connect applicants and recipients with appropriate community, interagency and support services. There appears to be little fiscal impact on this requirement.

SIGNIFICANT ISSUES

HSD notes that SB 36 amends Section 27-2-4 NMSA 1978 to add a new Subsection C that proposes to create categorical eligibility for child care subsidy for those “eligible to receive funds” through the TANF program. The phrase, “eligible to receive funds under TANF” assumes that the family meets the TANF criteria to receive cash assistance. To be eligible to receive TANF cash assistance a family must meet income eligibility criteria at 85% of the federal poverty guidelines (FPL). However, in order to receive childcare, the TANF recipient must be working or participating in an HSD approved work activity. SB 36 appears to open eligibility for childcare to families who are “eligible to receive funds under TANF” regardless of work or work activity and regardless of whether they actually receive TANF cash assistance; they just have to be “eligible to receive funds under TANF and not actually “receiving” cash assistance.

CYFD is notes that federal regulations explicitly restrict use of grants from the Child Care Development Fund for payments to families that demonstrates the need for care. Most families deemed eligible for TANF are also eligible for child care assistance based on financial eligibility requirements. However, an applicant for child care assistance who is receiving TANF *may not have a need* for care, or may not be participating in a work or school component that is required by CYFD Child Care Assistance and/or CCDF Federal regulations.

In addition, according to CYFD:

TANF caseworkers routinely refer clients to CYFD’s Child Care Assistance Program (either directly or through the NM Works Program) if they have a need for child care. The language in this bill could be interpreted to mean that the TANF caseworker would determine a client’s eligibility for the CCA Program and would complete the work necessary to create a contract between the client, the Department and the child care provider. This would pose numerous issues for the client and the child care provider. Among them, CYFD pays the child care provider directly, and also licenses and registers the provider. The database used by CYFD tracks these payments and maintains information about the client as well as the provider that the client is using. Having a third party, in this case either a TANF caseworker or a staff member of the NM Works Program), initiate and implement the paperwork related to the CCA would make CYFD’s mandatory reporting and oversight impossible.

The Child Care program administered by CYFD is funded with Federal Child Care

Development Funds (CCDF), TANF funds and General Funds. With lack of Federal CCDF and CYFD Child Care Assistance policy oversight, the proposed changes could be problematic and possibly create a violation of federal regulations. The Child Care Development Fund regulations are federal regulatory requirements which provide oversight to CYFD for the administration of federal funding for Child Care Assistance in New Mexico. Without federal regulation and policy oversight to ensure all requirements are met by child care assistance families, this bill could jeopardize CYFD's federal funding stream. It is important to note that when TANF funds are transferred to CYFD, these funds are then subject to CCDF Federal requirements.

OTHER SUBSTANTIVE ISSUES

HSD provided the following:

The New Mexico TANF program transfers to CYFD the total allowable TANF transfer amount of 30% of the TANF block grant. In addition, the 2008 New Mexico Legislative Special Session appropriated an additional \$7.2 million in TANF funds to CYFD specifically for the TANF population.

Families that do not receive a TANF cash assistance benefit but are below 100% of the federal poverty guideline are defined as the second priority populations to receive child care. This population does not appear to be referenced in SB 36. This population is referred to as "TANF eligible".

Due to limited budget availability and current funding provided to CYFD through the CCDBG, the TANF Block Grant and General Fund appropriations, this bill could result in or increase the number of persons applying for and receiving Child Care Assistance through CYFD. Without additional funding to support this population, CYFD may have to put other working families on a wait list for childcare.

The Deficit Reduction Act of 2005 (DRA) has increased the work participation requirements for TANF recipients; therefore, providing child care assistance to this population remains a top priority. Maintaining the current child care services based on established priorities is imperative to a positive outcome on the Federal TANF work participation rate.

ALTERNATIVES

CYFD suggests that following alternative:

Page 3 line 8, page 4 line 16, and page 9 line 5 of the bill states that "To the extent possible, the [Human Services Department] shall consider an applicant's eligibility for every program of financial support under the Public Assistance Act when documenting the eligibility for one program and, wherever possible, shall qualify an applicant as eligible for a program when eligible for any other program."

This language could be modified to insert "permitted by and consistent with other program regulation" after "wherever possible."