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

SPONSOR Jeff **ORIGINAL DATE** 02/22/13 **LAST UPDATED** **HB** 406

SHORT TITLE Medicaid Beneficiary Gross Receipts **SB**

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
$0.0	($33,000.0)	($37,200.0)	($40,200.0)	($43,500.0)	Recurring	General Fund
$0.0	($22,000.0)	($24,800.0)	($26,800.0)	($29,000.0)	Recurring	Local Governments
$0.0	($55,000.0)	($62,000.0)	($67,000.0)	($72,500.0)	Recurring	Total

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)
University of New Mexico (UNM)

SUMMARY

Synopsis of Bill

House bill 406 amends section 7-9-77.1, gross receipts deduction for certain medical and health care services to include Medicaid beneficiaries pursuant to the provisions of Titles 19 and 21 of the federal Social Security Act.

This bill also defines an audiologist and clarifies existing definitions pursuant to provisions of various Acts.

The effective date of this bill is July 1, 2013. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

This bill will further narrow the gross receipts tax base and would move New Mexico away from the tax policy goal of a gross receipts tax with a broad equitable base and a low rate.

Medicaid accounts for almost one fourth of all health care spending in New Mexico. This bill would significantly increase the size of the current deduction for health care services. The impact estimate assumes only actual Medicaid spending is included in the expanded deduction. It also assumes that the supply of medical services will meet the demand of Medicaid expansion, which is not at all certain. Publically available data from the Centers for Medicare and Medicaid Services (CMS) was used for this estimate.

Medicaid spending accounts for approximately 23% of all health care spending in New Mexico ($2.9 billion in 2009 and growing at an average of 11% per year). Based on the composition of current health care deductions and the proportionate size of Medicaid spending the impact is expected to more than double the current deduction under 7-9-77.1.

In the ten years from 2000 to 2009, Medicaid spending rose from $1.191 million to $2.911 million, averaging 11% per year. This component of growth in Medicaid is mainly due to increases in the cost of health care services.

The impact will also grow with the expansion of Medicaid beginning in January 2014. Some of the increased enrollment in Medicaid will simply be transfers over from some other form of healthcare that already deducts gross receipts (no net effect) and some of the increase will be from previously uninsured people, which will increase the amount of gross receipts, given the assumption of demand being met. Based on BBER's "High Uptake" scenario, in the first half of calendar year 2014, 89,000 newly eligible adults will be enrolled in Medicaid. This only includes the estimated number of enrollees who were previously uninsured.

Assuming that the average per-person spending is the same as existing Medicaid enrollees this is an increase in Medicaid of about 18% in the second half of FY14. Future impacts are estimated based on CMS forecasts for Medicaid spending growth rates, which account for Medicaid expansion.

SIGNIFICANT ISSUES

As reported by HSD:

Medicaid for-profit providers receive additional payment (over and above the fee schedule) to cover GRT on services paid by the Medicaid Fee for Service Program.

Managed care organizations typically pay for-profit providers additional payments (over and above the fee schedule) to cover GRT at negotiated amounts as part of their contracts with the providers. When the Medicaid program negotiates and establishes capitation payment amounts, the necessary amount to allow a managed care organization to appropriately reimburse providers for GRT is included in those amounts.

Payments by both the Medicaid Fee for Service program and the Medicaid managed care organizations would meet the definitions in the bill such that the health care providers indicated above would be able to take the deductions on payments made by Medicaid managed care organizations and the Medicaid Fee for Service program. Since for-profit providers included in this bill would no longer be paid the GRT amounts, the capitation amounts that HSD pays to managed care organizations should drop similarly.

GRT amounts paid to providers are matched with federal Medicaid matching funds, which account for approximately 70% of the tax amounts paid. If providers are not required to pay GRT to the NM Taxation and Revenue Department, it would not be permissible to continue to pay for-profit providers for the tax.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The Medicaid program would have to make minor changes in the computer system related to calculating gross receipts tax payments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflicts with HB612 which eliminates certain health care deductions and credits. Conflicts (overlaps) with HB99 regarding tax related to medical supplies, HB153/SB4 regarding tax related to dialysis, HB375 regarding expanding tax deductions, HB427 regarding tax related to rural health, SB267 regarding tax related to prosthetics and orthotics, and SB269 regarding tax related to medical supplies.

OTHER SUBSTANTIVE ISSUES

As reported by HSD:
HB 406 adds language to Section 7-9-77.1 NMSA 1978 that would allow receipts for services to

Medicaid beneficiaries to be deducted from gross receipts. Section 7 already has language that currently allows many health care providers and facilities to deduct payments for services to Medicare beneficiaries.

However, Section 7-9-93 NMSA 1978 already has language under Subsection B (which HB375 would change to G) that specifically disallows many health care providers from taking the deductions for "health care services provided for Medicare patients pursuant to Title 18 of the federal Social Security Act or for Medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act." So the two sections already seem to be in conflict regarding payments for services provided to Medicare beneficiaries.

Additionally, HB 375 adds new language to Section 7-9-77.1 NMSA 1978 that seems to give primacy to that section over other sections of the Tax Code by stating "Receipts that are otherwise deducible [sic] pursuant to another section of the Gross Receipts and Compensating Tax Act shall not be deducted from gross receipts pursuant to this section. Receipts from fee-for-service payments by a health care insurer shall not be deducted from gross receipts pursuant to this section." Because some of the Medicaid program's payments are fee-for-service, the language in HB 406 is in conflict with HB 375. (The language in HB 375 is not new to the Act, but its application has been broadened by moving it from a section dealing specifically with commercial contract services and Medicare Part C to a standalone section.)

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

EWM/blm