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

SPONSOR Cisneros

ORIGINAL DATE 01/30/13
LAST UPDATED 02/25/13

HB

SHORT TITLE Dialysis Facility Gross Receipts

SB 4/aSFC/aSFL

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
None	*Phased in 1/3*	*Phased in 2/3*	*Phased in 100%*	*100%*		
($0.0)	($170.0)	($520.0)	($900.0)	($1,124.0)	Recurring	General Fund
($0.0)	($140.0)	($435.0)	($755.0)	($941.0)	Recurring	Local Governments
($0.0)	**($310.0)**	**($955.0)**	**($1,655.0)**	**($2,065.0)**	**Recurring**	**Total**

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 153 (original was a duplicate).

SOURCES OF INFORMATION

LFC Files

Responses Received
Taxation and Revenue Department (TRD)
Human Services Department (HSD)
Aging and Long-Term Services Department (ALTSD)

SUMMARY

Synopsis of Senate Floor Amendment

The senate floor amendment adds a subsection requiring that a taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department. A second requirement that TRD shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. Beginning in 2019 and every five years thereafter, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and whether the deductions are providing a benefit to the state.

Synopsis of SFC Amendment

Senate Bill 4 amends section 7-9-77.1 NMSA 1978 to provide for a deduction from gross receipts of payments for payments by Centers for Medicare & Medicaid Services (CMS) to Medicare-eligible patients of dialysis facilities and to clarify the definition of dialysis facility. The deduction is phased in over a 3-year period: 1/3 in tax year 2014; 2/3 in tax year 2015; and 100 percent after December 31, 2015.

The effective date of this bill is January 1, 2014.

Section 7-9-77.1 is repealed effective July 1, 2021. This tax credit sunsets at the end of FY21.

Synopsis of Original Bill

Senate Bill 4 amends section 7-9-77.1 NMSA 1978 to provide for a deduction from gross receipts of payments for payments by Centers for Medicare & Medicaid Services (CMS) to Medicare-eligible patients of dialysis facilities and to clarify the definition of dialysis facility. The deduction is phased in over a 3-year period: 1/3 in FY 2014; 2/3 in FY 2015; and 100 percent after June 30, 2015.

The effective date of this bill is July 1, 2012. ~~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.

The deduction for certain medical and health care services will provide a positive impact to the general fund starting in fiscal year 2021 when the deduction is repealed.

According to TRD, the deduction for provision of services to Medicare beneficiaries will affect both local governments and the General Fund. According to the Dialysis Patient Citizens organization, there are 2,604 dialysis patients in New Mexico. There are 32 dialysis centers in New Mexico: 20 of which are for-profit and would qualify for the deduction. Correspondingly, the proportion of chairs in private dialysis centers to the total number of chairs is 62.4 percent, so the estimates are adjusted by this proportion. This revenue estimate uses information from the United State Renal Data System (USRDS) and assumes that 75 percent of individuals undergoing hemodialysis or peritoneal dialysis are primarily insured through Medicare. Estimated Medicare cost per patient for dialysis services only excluding separately billable drugs and other charges is $17,851 according to 2009 USRDS data. It assumes an average gross receipts tax rate of 7.17 percent.

Based on data and information provided by the industry and confirmed by the Department, the growth rate of dialysis patients is estimated at 4.4 percent. The estimated revenue impact of dialysis facilities is estimated to grow at the same 4.4 percent rate, once fully phased-in.

SIGNIFICANT ISSUES

The LFC has adopted tax principles that favor a broad base and low rate. This bill narrows the gross receipts tax base.

According to the HSD, there are approximately 2,450 renal dialysis patients in New Mexico, for which the great majority are eligible for Medicare. The average annual Medicare payment for a patient on dialysis is approximately $25,725.

Assuming that 2,300 patients are covered by Medicare (since any dialysis patient becomes eligible for Medicare Part A without any waiting period if the patient has worked a total of 10 years); the annual receipts of dialysis facilities in New Mexico would be approximately $59,167,500. It should be noted that when Medicare makes payment to a dialysis facility, they do <u>not</u> include any additional amount to cover state GRT, and that in virtually all other states, a renal dialysis facility would not have to pay tax to the state.

The Medical Assistance Division at HSD initially estimated that the annual loss of revenue to the state would be $3,846,000. This failed to consider that almost 30% of dialysis treatments are paid by private insurance and cannot be deducted under this bill. Other state agencies have concluded that when fully implemented after SFY 2015, the estimated loss of revenue to the State over a two year period would be $2,020,000. HSD agrees with that estimate.

ADMINISTRATIVE IMPACT

TRD reports a minimal impact. Revise CRS instructions and publications as a part of the semi-annual review and revision process. Taxpayer and department education is needed.

PERFORMANCE IMPLICATIONS

With the senate floor amendment, the LFC tax policy of accountability <u>is</u> met since TRD is required in the bill to report annually to the revenue stabilization and tax policy committee and the legislative finance 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.

TECHNICAL ISSUES

The TRD is upgrading its data systems relating to GenTax, requiring that the systems be "locked-down" to any modification until July 1, 2013. The department's IT resources are fully engaged with contractors during this period to test and validate the systems' upgrades, and pursuant to contractual agreements and best-practice standards may not undertake systems changes until system upgrade verifications are completed. TRD's IT personnel are unavailable to begin to develop systems modifications (e.g., new deductions, data reporting, functionality, etc.) until after July 1st, and therefore NO SYSTEMS CHANGES CAN BE IMPLEMENTED UNTIL OCTOBER 1, 2013 to allow adequate time for development, testing and verification of any new system requirements.

As a result, TRD will not be able to implement the GenTax modifications necessary to record and claim the tax credit until at least October 1, 2013, after the effective date of the legislation.

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/svb:blm