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FISCAL IMPACT REPORT

SPONSOR Morales **ORIGINAL DATE** 02/11/14
LAST UPDATED 02/13/14 **HB** _____

SHORT TITLE Due Process For NM Medicaid Providers **SJM** 22

ANALYST Geisler/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown			Recurring	General and Federal Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 22 requests the governor be requested to direct the Secretary of Human Services Department to provide the same due process protections and courtesies to New Mexico's Medicaid providers that have been afforded to the five Arizona providers.

FISCAL IMPLICATIONS

The fiscal impact from this change is unknown, but likely minimal.

SIGNIFICANT ISSUES

This memorial arises out of the actions of HSD in June 2013, when it suspended payments to 15 New Mexico behavioral health agencies and entered into contracts with behavioral health agencies from Arizona. According to the resolution, before payments were suspended, none of the New Mexico providers were given an opportunity to respond to any specific findings or concerns of the department upon which the payment suspensions were based. Also according to the resolution, HSD's contracts with the Arizona agencies ensure that, before the department takes any action against them based on any audit findings, the Arizona providers will be given the opportunity to respond to any of the department's concerns before payments are suspended.

HSD first comments:

The memorial is based on several fallacies, the most relevant and obvious of which is that HSD is not contracted with any behavioral health providers cited in the memorial. Each of the providers has entered into contracts with the four Centennial Care managed care organizations, effective on or about January 1, 2014, to provide behavioral health services in New Mexico. The interim contracts between HSD and each of the five providers terminated on December 31, 2013. Accordingly, the five providers cited in the memorial – each of which is now a New Mexico provider and none of which has ever been referred to the State of Arizona’s Attorney General’s Office for credible allegations of fraud – are subject to the identical state and federal fraud, waste and abuse restrictions as every other Medicaid service provider in the state.

Further, HSD advises:

- A significant number of the “New Mexico” providers whose Medicaid payments were suspended also had significant ties to Arizona, including: (1) Southwest Counseling Center, Inc.; (2) The Counseling Center, Inc.; (3) Southern New Mexico Human Development, Inc.; (4) Counseling Associates, Inc.; (5) Valencia Counseling Services, Inc.; (6) Families and Youth, Inc.; and (7) Border Area Mental Health Services, Inc. Individuals representing these seven entities are either officers or directors of two other organizations: (1) Rio Grande Behavioral Health Services, Inc. (“RGBHS”); and (2) Rio Grande Management, LLC (“RGM”). RGM is a wholly owned subsidiary of Providence Service Corporation (“Providence”), a for-profit, publically traded entity located in Tucson, Arizona. Six of the 7 CEOs, as well as other staff of these providers, were or continue to be Providence employees.
- On July 25, 2013, the US District Court for the District of New Mexico in Border Area Mental Health Services, Inc. et al. v. Squier, Case No. 2:13-cv-00613-MCA-WPL, held that the process utilized by HSD in withholding the Medicaid payments of eight (8) behavioral health providers and determining that credible allegations of fraud existed as to each of the providers fully complied with federal and state due process requirements. In addition, the federal Center for Medicare and Medicaid Services and the New Mexico Attorney General’s Office have consistently stated that HSD acted in full accordance with state and federal law.
- The legislature continues to allege disruption to New Mexico’s behavioral health system in the face of all actual evidence to the contrary.

RELATIONSHIP

A number of bills seek to address due process concerns for behavioral health providers, including SB 33, SB 126, SB 181 and SB 321. SB 321 seeks to waive immunity and provide a framework to allow the state to settle potential legal claims arising from behavioral health providers forced out of business by the state due to the implementation of Medicaid pay holds.

GG:MD/svb