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FISCAL IMPACT REPORT

ORIGINAL DATE
SPONSOR Herrell **LAST UPDATED** 02/03/15 **HB** 171

SHORT TITLE Birthing Workforce Retention Fund Awards **SB** _____

ANALYST Dunbar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB116

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

Responses Received From
 Department of Health (DOH)
 Board of Nursing (BN)

SUMMARY

Synopsis

House Bill 171 proposes two changes to Section 41-5-26.1 NMSA 1978 governing the Birthing Workforce Retention Fund. It proposes to:

- 1) remove a specific eligibility criterion requiring that the applicant must show that the applicant's insurance premium has increased over two consecutive years, and
- 2) prevent an award being used for 'tail coverage,' specifying an award may only be granted to an applicant who intends to remain in practice in New Mexico for the time-frame of the award.

FISCAL IMPLICATIONS

Currently, the Birthing Workforce Retention Fund provides malpractice insurance premium assistance to certified nurse-midwives (CNMs) and physicians in the state who have an in-force malpractice liability insurance policy; who demonstrate that they provide at least one half of their

obstetric services to Medicaid and or indigent patients; and whose insurance premium costs jeopardize their ability to continue their childbirth care practice (obstetrical care) in New Mexico. Annual appropriations to this fund are \$31,500. Currently, there is a remaining balance in the fund of \$66,892 due to not all of the funds being distributed because there are too few qualifying applicants. There are currently 208 nurse midwives certified through the DOH. Removing this eligibility restriction would increase the number of these individuals who could apply for these funds.

DOH mentions that payment of malpractice insurance continues to be a barrier for obstetric health care providers, both nationally and in the State. A survey sent to all CNM's licensed in New Mexico (212) on January 26, 2015 showed early preliminary findings that CNM malpractice insurance premiums range from \$7,000 - \$28,000 per year. A third of the early respondents to the survey reported annual salaries of less than \$75 thousand per year.

SIGNIFICANT ISSUES

HB 171 is a Department of Health (DOH) bill. Thirty-two of NM's 33 counties are listed as Health Provider Shortage Areas (HPSAs). These shortages are found in all specialties, including obstetrics. DOH notes that the Governor's Office has made the recruitment and retention of health care providers a top priority. The change in the criteria proposed by HB171 will increase the ability for the fund to be available to a larger percentage of the birth provider workforce, strengthening its goal as an incentive to retain the current birthing workforce and attract other birth providers to the state.

The BN notes that the bill does not recognize that New Mexico also regulates Licensed Midwives who are not Certified Nurse Midwives, but are clearly part of the regulated birthing workforce.

According to the Board of Nursing, Certified Nurse Midwives (CNMs) must hold a registered nurse license and a CNM license. The bill specifies (page 2 line 9) that the Certified Nurse Midwife be licensed in New Mexico, but does not specify if both the registered nurse license and the Midwife license needs to be issued by New Mexico. Current statutes and rules allow a Certified Nurse Midwife to hold a compact state registered nurse license from any of the 24 compact states to be eligible for a New Mexican Certified Nurse Midwife license. Those CNMs with other-state compact registered nurse licenses have NOT declared New Mexico as their state of legal residence, which means that they do not intent to remain in New Mexico.

HB 171 affects providers of health care for pregnant women only and is restricted to those with at least 50 percent of their childbirth services being provided to Medicaid-funded and indigent women. HB 171 would potentially improve access to and use of care by low-income pregnant women.

PERFORMANCE IMPLICATIONS

HB171 relates to the DOH FY2016 Strategic Plan, Result 2: Improved quality, accessibility, and utilization of health care services. A national performance measure for DOH is to increase the percentage of prenatal patients who receive prenatal health care starting in the first trimester. Improvements in this area can only be achieved if there are birth providers to see these patients.

ADMINISTRATIVE IMPLICATIONS

HB 171 would result in an increase in applicants due to removal of one of the eligibility criteria restrictions. Additional staff time would be required to oversee procedures and rules for distribution of the fund, to inform potential recipients of these eligibility criteria (and the proposed changes to it), to process and prioritize applications and to make distributions of the fund. DOH states that these duties will be accomplished with existing program resources.

RELATIONSHIP

Relates to SB 116 which seeks to create a collaborative to improve birth outcomes in New Mexico.

OTHER SUBSTANTIVE ISSUES

Addressing the Anti-Donation Clause's, HB167, which provided for the Birthing Workforce Retention Fund during the 2008 Legislative Session, was thought to conflict with the New Mexico Constitution's public or private corporation or in aid of any private enterprise for the construction of any railroad except as provided in Subsections A through F of this section. Nothing in this section prohibits the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons."

At that time the Institute for Public Law at the University of New Mexico was consulted. This was the summary statement: "Recognizing the important limitations set forth in "Anti-Donation Clause", Article 9, Section 14, cited below: "Sec. 14. [Aid to private enterprise; veterans' scholarship program; student loans; job opportunities; affordable housing.] : Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or the Anti-Donation Clause of the New Mexico State Constitution, Article 9, Section 14, participating medical professionals must be willing to serve patients with Medicare coverage and patients receiving medical assistance through Medicaid in at least the same proportion to their total number of patients. Such a requirement from the medical professionals participating in the reinsurance program fits within the Anti-Donation Clause's allowance of the expenditure of public funds for the provision of care and maintenance of sick and indigent persons."

BD/bb/je