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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/17

SPONSOR McSorley LAST UPDATED _____ HB _____

SHORT TITLE Professional Art Therapist Discrimination SB 151

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		31.0	31.0	62.0	Recurring	General Fund
Total		124.0	124.0	248.0	Recurring	Federal Funds

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB216

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Superintendent of Insurance (OSI)
 Human Services Department (HSD)
 Retiree Healthcare Association (NMRHC)
 Public School Insurance Authority (PSIA)

SUMMARY

Synopsis of Bill

Senate Bill 151 proposes to add new sections to the Health Care Purchasing Act, Public Assistance Act, Chapter 59A, Articles 22 and 23 NMSA 1978, Health Maintenance Organization Law and Nonprofit Health Care Plan Law to ban discrimination against professional art therapists. The bill requires that if the plans administered under the above mentioned laws provide coverage for professional art therapists, that they not deny the right to participate in the group health plans provider network, if they are willing to participate under the same terms and conditions as any other health care practitioner. The bill also prevents the health plan from permitting, mandating or incentivizing the selection of other types of health care treatment. Lastly, the bill does not prevent the health plans from establishing varying reimbursement rates among health care practitioners based on quality or performance measures.

FISCAL IMPLICATIONS

Reimbursement under the Medicaid Managed Care program is based on provider type and not treatment modality. SB151 would allow licensed professional art therapists to receive a higher rate based on the treatment modality, which do not apply to any other provider under managed care.

The Human Services Department (HSD) anticipates if 12 licensed professional art therapists (LPAT) enroll at a reimbursement rate of \$71 per hour, the annual cost to the Medicaid program is approximately \$155 thousand (state and federal funds combined).

SIGNIFICANT ISSUES

The Office of the Superintendent of Insurance (OSI) believes that singling out one specific kind of provider for “any willing provider” status may cause confusion and will almost certainly lead to subsequent legislation to add other specific kinds of providers to the exception category. No other kind of behavioral health provider or any other kind of provider has this exemption now.

According to HSD, the under the current Medical Assistance programs, LPAT services are covered when the LPAT is employed by an agency, such as a behavioral health agency, a community mental health center, a behavioral health core service agency, a federally qualifying health center, or Indian Health Services or a tribal health provider. Therefore, under the fee-for-service Medicaid program and the Medicaid managed care organizations (MCOs), LPAT services in private practice are not covered and the agency employing the LPAT receives payment, not the LPAT. The bill would allow licensed professional art therapists in private practice who do not have an additional license to enroll and would require the Medical Assistance programs to pay the enrolled LPAT.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB151 duplicates HB216.

OTHER SUBSTANTIVE ISSUES

HSD points out that the requirement to not “deny the right to participate in the medical assistance plan’s provider network to any professional art therapist who is willing to participate under the same terms and conditions . . .” is unprecedented in the Public Assistance Act. Provider networks in the Medicaid Managed Care program are developed based on need, not on provider willingness. The MCOs are obligated to achieve access standards for behavioral health that include all master level clinicians, who would be included in those standards. SB151 goes beyond both state and federal requirements for all provider types by requiring the MCOs to enroll every willing LPAT provider.

HSD continues that the requirement to not “reimburse a professional art therapist at a lower rate than any other health care practitioner for the same service” is also unprecedented in the Public Assistance Act. The MCOs currently negotiate rates with providers as they construct their network. At times, a rural or struggling behavioral health agency may be paid more than an urban provider to assure that recipient access requirements to providers are met. This bill would require that an MCO pay all LPATs at the same amount, regardless of the negotiated rate.

Senate Bill 151 – Page 3

According to OSI, health insurance carriers establish criteria for credentialing, and do not offer all applicants an invitation to be a provider. This could be due to various factors: complaints or lawsuits filed against the provider, previous billing issues with the provider that could not be resolved, and inability to come to agreeable contract terms with the provider, to name a few. The Public School Insurance Authority (PSIA) suggests health plans may have difficulty determining appropriate coding required for claim payments.

ALTERNATIVES

HSD could amend its rules to allow for reimbursement of LPATs.

ABS/jle