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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/22/19

**SPONSOR** Thomson/Stansbury      **LAST UPDATED** \_\_\_\_\_      **HB** 68

**SHORT TITLE** Additional DD Waiver Program Enrollment      **SB** \_\_\_\_\_

**ANALYST** Chenier

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	\$25,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$25,000.0	\$25,000.0	\$50,000.0	Recurring	General Fund
		\$66,100.0	\$66,100.0	\$132,200.0	Recurring	Federal Funds
		\$111.8	\$111.8	\$223.6	Recurring	Human Services Department FTE
		\$128.4	\$128.4	\$256.8	Recurring	Department of Health FTE
<b>Total</b>		<b>\$91,340.2</b>	<b>\$91,340.2</b>	<b>\$182,680.4</b>	<b>Recurring</b>	<b>Total</b>

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to an appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

**SUMMARY**

Synopsis of Bill

House Bill 68 appropriates \$25 million from the general fund to DOH for expenditure in FY20 and FY21 to provide for the allocation or enrollment for support and services through the Medicaid Developmental Disabilities Waiver Program of additional eligible individuals awaiting allocation on the department’s central registry. Between FY20 and FY24, the bill would require the department to allocate 600 slots each year for people awaiting services on the Developmental Disabilities Medicaid Waiver central registry. To waive the requirement of allocating 600 slots, the bill would allow the governor to declare a financial emergency and notify the LFC of the emergency.

**FISCAL IMPLICATIONS**

The appropriation of \$25 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY21 shall revert to the general fund.

Given a federal Medicaid assistance percentage (FMAP) of 72.71 percent, \$25 million from state general fund would allow the state to leverage approximately \$66.1 million in federal revenue. This would increase spending on the Developmental Disabilities (DD) Medicaid Waiver by a total of \$91.1 million. The average FY18 per client cost on the waiver was \$81.6 thousand, which would allow the department to allocate about 1,116 new slots if costs held steady. In Section 2, the bill appropriates the \$25 million for FY20 and FY21 and requires 600 allocations each year. The appropriation may be insufficient to accomplish the 600 allocations in FY21, which would likely trigger the provision in Section 1 (B) requiring the governor to declare an emergency if the department were to allocate fewer than 600 slots.

HSD provided the following, using a slightly different match rate than the LFC analysis above:

HSD estimated the fiscal impact of adding 600 eligible individuals to the DD and Mi Via waivers each year for five years from FY20 through FY24. This included the program costs and administrative costs of providing services to 600 individuals each year for a total of 3,000 individuals by FY24. The table below outlines the general fund need for the additional individuals.

<b>Cost of Adding 600 Individuals Each Year to DD and Mi Via Waivers (\$000s)</b>							
<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>Fund Affected</b>
\$28,815	\$74,931	\$134,310	\$205,366	\$289,845	\$360,792	\$432,074	Total Expenditure
\$20,884	\$54,346	\$97,447	\$149,037	\$210,383	\$261,961	\$313,783	Federal Fund
\$7,931	\$20,586	\$36,863	\$56,329	\$79,462	\$98,831	\$118,291	General Fund
600	1200	1800	2400	3000			Number of Individuals Added

The HSD, Income Support Division (ISD) would need approximately two additional full-time equivalents (FTE) to handle the caseload growth. The estimated cost for two FTE would be \$111.8 thousand annually. These positions will be Pay Range 60. Mid-point salary is \$40,206.40 per FTE. Annual Benefits is \$15,680.50 for a total of \$55,886.90 per FTE annually.

DOH said that additional DOH staff would be necessary to support DD and Mi Via Waiver enrollment expansion. DOH would need to hire at least 4 FTEs at a cost of \$32,071 per person annually.

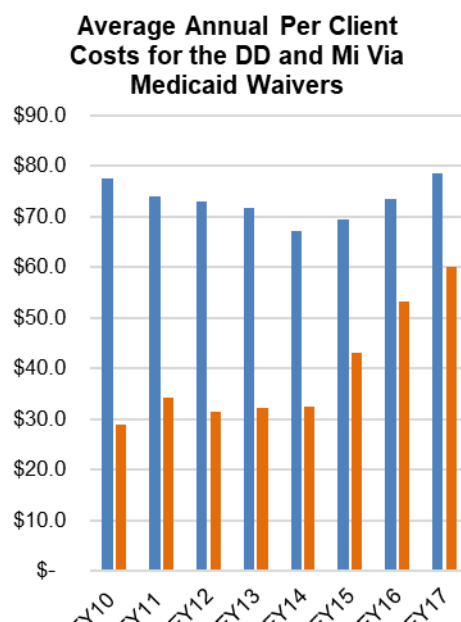
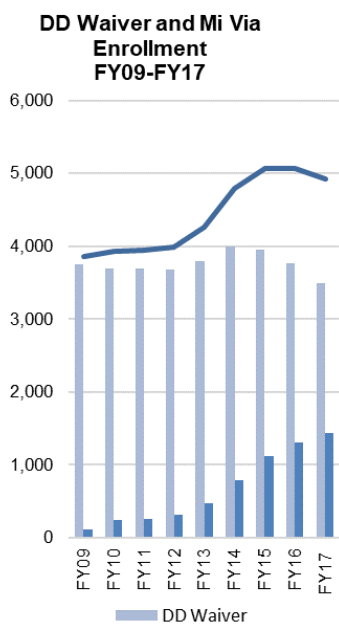
Both LFC and the executive FY20 budget recommendations included an appropriation of \$7 million from the general fund to allocate over 300 new slots on the DD Waiver.

### SIGNIFICANT ISSUES

In September, 6,436 people were on the central registry, a database used to track developmental disabilities clients who are either waiting for developmental disability Medicaid waiver services or have signed up to be on one of the waivers but have not yet been determined eligible. Of those on the registry, approximately 4,934 have been determined eligible and are awaiting allocation.

Limited cost-containment capability – a result of litigation and other structural issues – is contributing to average annual cost growth in each of the Medicaid waivers for people with developmental disabilities. As noted in a recent evaluation of the two waivers, total expenditures have continued to increase while enrollment in the developmental disabilities waiver is leveling out. The majority of overall spending increases are because of sharp increases in enrollment and average cost increases in the Mi Via waiver. For example, the average individual cost to provide services to people on Mi Via more than doubled from \$29 thousand in FY10 to \$60 thousand in FY17. The report found expenditures on some of the more expensive services, such as in-home supports, grew from less than 9 percent of total Mi Via costs in FY12 to 40 percent of total costs in FY17. Average annual client budgets are growing closer to established caps. Furthermore, some Mi Via clients require a waiver from the individual annual budget cap.

If these trends continue, it will make it more difficult to remove people from the waiting list and to manage other aspects of the system such as provider rates and the Jackson class action lawsuit.



HSD provided the following:

New Mexico has a shortage of qualified personnel. The New Mexico Department of Workforce Solutions (<https://www.dws.state.nm.us/Labor-Market-Information/Data-Statistics-Dashboards/Employment-Projections>) projects that Personal Care Aides will be the largest growth area of employment and the area with the most annual job openings in the next seven years. These openings are critical to supporting individuals with developmental disabilities. Even with the current size of the DD and Mi Via Waivers, recruitment and retention of qualified personnel is a significant and ongoing challenge for provider agencies and for individuals who hire their own supports personnel through Mi Via.

Significant infrastructure growth and provider capacity would be required to support the additional enrollment of 600 individuals each year for the next four years. The required infrastructure development, within state government and provider/employee networks, would take time to develop.

The average cost of the DD Waiver has been steadily increasing over the past several years. In FY17, the average cost per person was \$78,656. The cost rose to \$85,889 in FY18, and there is a projected average cost of \$92,209 per person for FY19.

DOH said the steps to allocate individuals on the waivers include determination of financial and medical eligibility, assessment of needs and service planning, selecting providers or employees, prior authorization of approved services, and receipt of services. The timeframe ranges from 60 – 180 days and may be longer in some cases. Timeframes depend on individual financial and medical records status, competing scheduling issues for individuals and their supports, and provider/employee recruitment. Therefore, the annual budget for each individual enrolled is not fully utilized in the first year of service. This is referred to as the “ramp up” effect. It typically takes two full years before an individual fully utilizes his/her budget.

## **ALTERNATIVES**

DOH provided the following:

DOH proposes alternative methods to support the same outcome of increased access to services and decreased wait time. The \$25 million recurring appropriation could be used to fund supports and services for at least 600 additional eligible individuals on the Central Registry Wait List in the first year, while also focusing on long-term sustainability of an array of services for individuals on the Central Registry Wait List.

DOH endorses the development of a Supports Waiver to create access to services for all eligible individuals on the Central Registry Wait List. The development of a Supports Waiver would include a needs assessment for the individuals on the Central Registry Wait List. The sum of \$3.3 million would support administration of a standardized needs

assessment for all 4,987 eligible individuals on the Central Registry Wait List to determine and plan for future services. Multiple states (e.g., Alabama, Connecticut, Massachusetts, North Dakota) utilize the Vineland, a standardized adaptive behavior assessment, as an in-depth, condition, or service-specific assessment

(<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUK Ewi4-7X1-uDfAhU0Pn0KHRPQBvIQFjAAegQIABAC&url=https%3A%2F%2Fwww.macpac.gov%2Fwp-content%2Fuploads%2F2017%2F02%2FInventory-of-State-Functional-Assessment-Tools-for-LTSS.xlsx&usg=AOvVaw2-x4K7qoixeSpXNbi44kG7>).

DOH would develop a more person-centered system by training DDS, its stakeholders, and provider agencies on developing and implementing a person-centered focus in all activities, including needs assessment, service planning, and in administrative planning. The National Council on Disability (NCD) reports that research supports settings that are person-centered for individuals with disabilities. They also reiterate the Medicaid regulations reinforcing person-centered planning. The shift toward person-centered policies and practices supports the Final Settings Rule, new regulation required to be implemented by all states administering 1915(c) home and community-based services ([https://www.nasdds.org/uploads/documents/HCBS\\_Report\\_FINAL2.pdf](https://www.nasdds.org/uploads/documents/HCBS_Report_FINAL2.pdf)). On-going training to professionalize the Direct Support Professionals (DSPs) would be developed.

NMDOH would also develop a process to analyze the outcomes and assess the impact of services provided through the DD and Mi Via Waiver programs.

## ADMINISTRATIVE IMPLICATIONS

HSD said that the number of enrollees served through the waiver programs, DD traditional and Mi Via, are reported to and approved by the Centers for Medicare and Medicaid Services (CMS) on a five-year waiver cycle. To claim federal matching dollars, HSD would be required to amend the waivers to increase the number of individuals served and the number of individuals projected to be served in future periods. The entire waiver amendment process may take six months or more and could impact the ability of HSD to access federal matching dollars starting in SFY20. A waiver amendment must go through 30 days of public comment and 60 days of tribal notification. CMS has 90 days to review and approve the amendment or formally request additional information, which may lengthen the CMS review period.

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