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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/21
SPONSOR Barreras **LAST UPDATED** 02/28/21 **HB** 13/aHSEIC/ec

SHORT TITLE Emergency Services for Non-Citizens **SB** _____

ANALYST Esquibel/Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HSD FTE	\$8.6	\$34.3	\$34.3	\$77.2	Recurring	General Fund
HSD FTE	\$8.6	\$34.3	\$34.3	\$77.2	Recurring	Federal Funds
Services/Cards		\$1,470.3	\$6,310.9	\$7,781.2	Recurring	Federal Funds
Services/Cards		\$490.1	\$1,530.9	\$2,021.0	Recurring	General Fund
ASPEN IT System Change		\$2,405.5		\$2,405.5	Non-Recurring	Federal Funds
ASPEN IT System Change		\$801.5		\$801.5	Non-Recurring	General Fund
Covid-19 Vaccine*		\$393.9		\$393.9	Recurring	Federal Funds
Covid-19 Vaccine*		\$95.7		\$95.7	Recurring	General Fund
Health Care Coverage		\$0.0-\$49,140.0	\$0.0-\$49,140.0	\$0.0-\$98,280.0	Recurring	General Fund (100%)
Total Medicaid General Fund Cost	\$8.6	\$1,421.6-\$50,561.6	\$1,565.2-\$50,705.2	\$2,995.4-\$101,275.4	Recurring	General Fund
TOTAL MEDICAID COST	\$17.2	\$5,725.6-\$54,865.6	\$7,910.4-\$57,050.4	\$13,653.2-\$111,933.2	Recurring	Federal + General Funds

(Parenthesis () Indicate Expenditure Decreases)

*HSD already requested federal approval to cover Covid-19 vaccine for the Emergency Medical Services for Aliens Medicaid category, and will cover this service pending federal approval. However, the operating budget impact is included here because of HB13's proposed requirement to cover vaccines regardless of federal approval.

Relates to House Bill 112, Health Benefits for Certain Non-Citizens.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

SUMMARY

Synopsis of HSEIC Amendments

The House State Government, Elections and Indian Affairs Committee amendments to House Bill 13 provide for the following:

- Change “Emergency Medical Services For Aliens” to “Emergency Medical Program for Non-Citizens”;
- Add to the definition of covered emergency medical condition services a clause indicating the Human Services Department (HSD) can determine the covered services, notwithstanding medical supplies, precautionary treatment following services, and vaccinations;
- Add a new section to the Public Assistance Act requiring HSD provide health care providers with guidance on accessing, prioritizing and maximizing available federal sources of claims reimbursement for services furnished to immunize against, evaluate, or treat an emergency medical condition related to a disease or potential exposure to a disease that has caused the declaration of a public health emergency pursuant to the federal Public Health Service Act or a state public health emergency pursuant to the Public Health Emergency Response Act; and
- Add an emergency clause.

Synopsis of Original Bill

House Bill 13 (HB13) proposes adding a section to the Public Assistance Act (Section NMSA 1978) to allow payment for emergency medical services from state Medicaid funds for immigrants not otherwise authorized for coverage under Medicaid.

Emergency medical conditions defined in the bill include any condition manifesting itself with acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in the patient's death, placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

The bill also proposes to cover medical services related to a declared public health emergency in the state or country and conditions having to do with labor and delivery.

The bill further specifies that labor and delivery services would be covered in New Mexico or at an out-of-state border acute care hospital. In addition, the newborn child of a mother covered by Medicaid in this way would be eligible for Medicaid at the time of birth.

The bill would also require HSD streamline the application process for emergency Medicaid

services and make them as readily available as standard Medicaid application processes. The bill would require approving emergency medical services for 12 months, to include up to 90 days before the individual's application. Medical care providers would be notified by HSD of approval or denial of medical care services in the same way as for services for other Medicaid clients.

The original bill did not include an effective date.

FISCAL IMPLICATIONS

House Bill 13 does not include an appropriation.

The Human Services Department estimates approximately 1,800 New Mexico residents would be newly eligible for expanded emergency medical services through the Emergency Medical Program for Non-Citizens proposed under HB13/aHSEIC. The costs in the table above represent HSD's costs in serving those 1,800 residents, including revising eligibility IT systems, issuing identification cards, and paying for services or notifying providers of any denial of their bills for patients. The costs listed in the table include Covid-related expense the state would likely pay for with or without passage of this bill, pending federal approval of the waiver HSD has already submitted. Note that a varying federal match has been applied to each cost category.

Current Coverage

HSD notes it currently provides limited coverage to certain non-citizens who, because of their immigration status, do not qualify for full Medicaid coverage. Such services are currently limited to emergency services under the Emergency Medical Services for Aliens (EMSA) Medicaid category, as outlined in regulation at NMAC 8.285.600. Approximately 1,800 unduplicated individuals are approved for EMSA coverage annually. Emergency Medicaid is federally required to cover "a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (A) placing the patient's health in serious jeopardy, (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part." HB13/aHSEIC would codify requirements to cover these services in state statute, but since HSD already covers services in these two categories, adding them to the statute would not result in a fiscal impact to HSD.

HSD FTE Costs

HSD indicates it would require an FTE at an annual cost of \$68.6 thousand split equally between federal and state general fund to operate the program beginning with a half year in FY21.

Eligibility IT System Changes

HSD reports the bill would require EMSA applications be made and processed through the same process and methods as other categories of Medicaid. This would include providing a 12-month span of approval and allowing applicants to request retroactive coverage for up to 90 days prior to the individual's application. Making these changes would require extensive system changes to the state's Eligibility and Enrollment IT system (ASPEN) at a total cost of \$3.2 million. Using a federal matching rate of 75 percent, the cost to the state general fund would be \$801.5 thousand (with the federal share being \$2.4 million). The ASPEN eligibility system change would need to occur during FY22 and would be a one-time cost.

Covid-19 Testing and Vaccination Coverage

HSD notes it applied to the federal government to expand the definition of emergency services under EMSA to cover Covid-19 testing for this population. HSD is also currently seeking federal approval to cover Covid-19 vaccinations under the EMSA category. Under the provisions of the bill, there would be a fiscal impact for coverage of Covid-19 vaccines pending federal approval. However, HSD notes the department is already planning to implement coverage of this service pending approval of its waiver submitted with the federal government.

Based on a take-up rate of 60 percent which uses the regular Medicaid take up rate from the pool of 18,000 Medicaid-eligible non-citizens in New Mexico based on a 2020 Urban Institute study, 10,800 non-citizens would apply for the Covid-19 vaccine with an administrative cost of \$45.33 for the 2-dose vaccine. This will cost the state \$489.6 thousand of which \$95.7 thousand is the cost to the state general fund (\$393.9 thousand is federal funds). This estimate assumes all clients receive the vaccine in FY22.

Coverage Expansion for EMSA Beneficiaries

HB13/aHSEIC would require HSD to cover those services “necessary to immunize against, evaluate or treat an emergency medical condition including diagnostic testing, testing-related services, medications, treatment for the emergency medical condition and any complications or co-infections as determined by the department, medical supplies, precautionary treatment following services and vaccinations related to a declared public health emergency.”

HSD reports the definition of “any complications or co-infections as determined by the department, medical supplies, precautionary treatment following services and vaccinations,” is unclear and as well as how far removed a condition that falls under these terms may be to qualify.

The estimated population associated with the analysis for expanding the expanded scope of coverage reflects HSD’s 2020 experience with the EMSA population. A prospective actuarial analysis for 2020 was used to account for projected utilization of selected medical services. The service-using population represents new entrants to the Medicaid program, based on a take-up rate of 10 percent from the pool of 18 thousand Medicaid-eligible non-citizens in New Mexico. Categories are identified in the table below, according to expected service utilization per 1,000, unit cost of service, and the Medicaid actuarial fair value of services per-member-per-month (PMPM). The aggregate cost calculation assumes that services would be provided over a 12-month period. Accordingly, the annual cost of covering non-emergency Covid-19 treatment under Emergency Medical Services (EMS) is estimated to be \$7.84 million, of which \$6.31 is federal funds and \$1.53 million state general funds.

Emergency Medical Services	Utilization per 1,000	Unit Cost	PMPM
Inpatient hospital	434	\$3,137.08	\$113.54
Outpatient hospital	1,326	\$541.09	\$59.79
Emergency Room	676	\$707.32	\$39.83
Emergent transportation	197		
Sum Total			\$363/month
Annual Cost for 1,800 at risk of requiring services			\$7.84 million
Federal share expensed at 80.45% FFP			\$6.31 million
State Share			\$1.53 million

HSD writes that without clarify regarding the definition of covered services, the range of the potential fiscal impact varies greatly up to \$49 million assuming 10 percent to 60 percent of the eligible population seeks medical services. HSD writes “for example, if an individual contracts Covid-19 and loses their job as a result of the PHE and a year after the PHE declaration ends is still suffering from resulting depression and severe chest pain, would Medicaid be responsible for covering those costs?”

HSD economists made the assumption that the earliest effective date could be April 1, 2022, assuming the time it would take to obtain federal approval, promulgate rules, and make required IT system changes. The estimated fiscal impact for services and card issuance is three months of FY22, April 1 through June 30, 2022. Three months of service and card issuance is \$1.96 million (\$7.84million times 25 percent). Federal funds for FY22 would be \$1.47 million (\$1.96 million times 75 percent). State funds for FY22 would be \$490.1 thousand (\$1.96 million times 25 percent).

Combining the annual cost of services and card issuance results in an estimated total annual cost of \$7.84 million. Federal funds are \$6.3 million for new covered services, plus \$900 as noted above for card issuance for a total annual impact of \$6.3 million. State funds would be \$1.53 million for new covered services, plus \$900 for card issuance for a total general fund impact of \$1.53 million.

FY23 Administrative Costs for EMSA cards

HB13 would also require HSD to issue cards showing the individual’s eligibility for EMSA. HSD does not currently issue cards to EMSA-eligible individuals, so this proposed requirement would come with an additional cost. In 2020, HSD had approximately 1,800 unduplicated individuals approved for EMSA. The cost per card (printing and postage) is about \$1.00 each. Assuming similar approval numbers, the expected annual cost of issuing cards is \$1,800 total. With a federal match of 50 percent, this equates to \$900 in federal funds and \$900 in state funds per year.

SIGNIFICANT ISSUES

The 1986 federal Emergency Medical Treatment and Active Labor Act (EMTALA) requires emergency departments provide stabilizing medical care to anyone regardless of ability to pay and regardless of immigration status. In the absence of a payment source, hospitals and other providers provide uncompensated care. However, since the passage of the federal Affordable Care Act (ACA) uncompensated care has declined substantially. Uncompensated care could be further reduced if emergency Medicaid was approved by the federal Centers for Medicare and Medicaid Services (CMS), and CMS allowed federal matching funds to be used to cover the cost of care for immigrants. However, it is unclear if federal approval of such a Medicaid waiver would be forthcoming and in what timeframe. Without federal approval and given the emergency clause, HSD could potentially be required to cover costs of the bill’s proposals with 100 percent general fund until CMS approval is granted.

Under the Families First Coronavirus Response Act (FFCRA), the federal Department of Health and Human Services (HHS) is providing support to health care providers fighting the Covid-19 pandemic through the Covid-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured Program. This program provides reimbursements on a rolling basis directly to eligible providers for claims that are

attributed to the testing, treatment, and vaccine administration for Covid-19 for uninsured individuals. A social security number is not required to submit claims and HHS has committed that undocumented claims can be submitted through this portal (see: <https://coviduninsuredclaim.linkhealth.com/frequently-asked-questions.html>).

The Department of Health (DOH) reports it provides both Covid-19 testing and vaccination without charge to New Mexico residents, regardless of immigration status.

Allowing for continued eligibility for Medicaid services for a 12-month period would reduce the administrative time and expense needed to process multiple applications for the same person within that period and would allow for better continuity of health care.

ADMINISTRATIVE IMPLICATIONS

HSD notes it would need to seek a waiver from the federal government to make the changes proposed in HB13/aHSEIC, would need to promulgate rules, and would need to update its eligibility IT system, ASPEN, which all would take several months and cost approximately \$3.2 million.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 112, Health Benefits for Certain Non-Citizens, which would prohibit county indigent funds, county hospitals, and county-contracted hospitals from discriminating among patients based on immigration and documentation status.

TECHNICAL ISSUES

HSD suggests the following amendments to HB13/aHSEIC:

- Remove the emergency clause proposed in the HSEIC amendment to Section 3.
 - HSD could not implement the provisions of HB13/aHSEIC immediately per an emergency order clause because the ASPEN eligibility system changes necessary for implementing HB13 would require approximately 14 calendar months to complete.
 - The necessary changes to the New Mexico Administrative Code would require standard rule promulgation with takes approximately six months, particularly given limited staffing considerations.
 - HSD would need federal approval to amend the Medicaid state plan and federal approval allows for a 90 day review. Without federal approval for these changes, the state would be required to cover these services with 100 percent general fund.

HSD also suggests more clearly defining “covered services” in Section D (1). HB13/aHSEIC would have the statute mandate that it is up to the discretion of HSD to define covered services.

The Department of Health notes ‘emergency medical services’ as used in HB13 conflicts with emergency medical services used in other existing statutes to define the system of paramedics and EMTs that respond to 911 calls and other requests for service in our state. This could cause some confusion regarding a statutory definition of “emergency medical services.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HSD reports it currently provides limited coverage to certain non-citizens who, because of their immigration status, do not qualify for full Medicaid coverage. Such services are currently limited to emergency services under the Emergency Medical Services for Aliens (EMSA) category. Approximately 1,800 unduplicated individuals are approved for EMSA coverage annually. Services covered under the current EMSA program include emergency medical treatment and labor and delivery services. HB13 would codify requirements to cover these services in statute, but HSD already covers services in these two categories.

HB13 would require HSD to cover immunizations related to a declared public health emergency. HSD is currently seeking federal approval to cover Covid-19 under the EMSA category. While there would be a fiscal impact for coverage of vaccines for the EMSA population, HSD notes the department is already planning to implement coverage of this service through a waiver with the federal government. Coverage of vaccines for this category is contingent upon federal approval.

RAE/LAC /sb/al