F I S C A L I M P A C T R E P O R T

SPONSOR Hochman-Vigil **ORIGINAL DATE** 02/16/21 **LAST UPDATED** 03/05/21 **HB** 215/aHJC

SHORT TITLE Behavioral Health Screening Coverage **SB**

ANALYST Esquibel/Rabin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$750.0	$1,500.0	$2,250.0	Recurring	State General Fund, Local Government Funds, Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act of 2021
Relates to Senate Bill 216, Possession of a Controlled Substance.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
New Mexico Counties (NMC)
Department of Health (DOH)

No Response Received
New Mexico Municipal League (NMML)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendments to House Bill 215 propose that, in accordance with federal law, screening, brief intervention and referral to treatment services (SBIRT) coverage could include certain persons not currently eligible for Medicaid enrollment.

The amendments clarify Medicaid coverage for SBIRT services would be provided by or under the supervision of a healthcare provider and, for the purpose of identifying individuals, using an evidence-based screening tool approved by HSD when a healthcare provider reasonably believes

a person has symptoms of an alcohol or substance use disorder or is at risk for developing an alcohol or substance use disorder.

Synopsis of Bill

House Bill 215 (HB215) would require the Human Services Department (HSD) to adopt and promulgate rules to provide medical assistance, or Medicaid, coverage for eligible enrollees to receive screening, brief intervention and referral to treatment (SBIRT) services. Definitions and details of SBIRT coverage are provided.

HB215 would also add a requirement that practitioners obtain and review certain reports from the prescription monitoring program (PMP) if they prescribe benzodiazepines to patients. The current requirement is for prescribed opioids only.

HB215 also contains a temporary provision that would require county sheriffs or jail administrators to provide medication-assisted treatment (MAT) for qualifying persons under their supervision, no later than January 1, 2022, subject to available state funding and mental or behavioral health care resources.

FISCAL IMPLICATIONS

The bill does not include an appropriation. The Human Services Department (HSD) reports SBIRT has been a covered benefit under the Medicaid program since 2019, so there is no new fiscal impact for HSD.

Regarding the bill's provision to provide MAT in county jails subject to available funding, the New Mexico Counties Association reports there are 27 county adult detention facilities. It is difficult to estimate how many of these detention facilities would implement MAT and how many individuals would require the treatment and for how long. However, the funding described below gives an indication of an estimated annual operating impact of approximately $1.5 million based on current MAT programs at the Metropolitan Detention Center in Albuquerque and at the detention center in San Miguel County.

The Human Services Department's Behavioral Health Services Division (BHSD) allocated $1,408,130 in state general fund revenue in FY20 to fund an ongoing medication-assisted treatment (MAT) program at the Metropolitan Detention Center (MDC) in Albuquerque. The MAT program at MDC serves approximately 200 inmates daily with methadone and has recently gained approval to provide suboxone. As they are released, inmates receiving MAT are integrated back into the community with a warm hand-off for continuity of treatment. A published study by a team of University of New Mexico researchers showed that MDC inmates who received methadone treatment were less likely to be rebooked and experienced a longer period of time in the community before being rebooked than did inmates who had substance use disorders and were detoxified with palliative medication upon incarceration. The study also followed 137 methadone clients upon release and found that 97.8 percent continued methadone treatment at Opioid Treatment Programs in the community (Westerberg, Verner, et al. *Community-based methadone maintenance in a large detention center is associated with decreases in inmate recidivism*, Journal of Substance Abuse Treatment 70 (2016) 1-6).

Through a 2019 legislative appropriation totaling $1.5 million, BHSD's Intervention

Demonstration Project used a portion of the funding to support a MAT program in San Miguel through June 2020, serving 43 participants. Data on 35 participants showed a reduction in recidivism from a facility rate of 76 percent to 51 percent for those who participated in the MAT program. Additionally, data collected prior to and after the MAT program showed a decrease (from 45 to 4) in incidents where officers had to respond. BHSD is currently entering into a pilot project with Roosevelt County for MAT services at the county's jail, supported by federal State Opioid Response grant funds.

SIGNIFICANT ISSUES

Medication-Assisted Treatment Effective for Incarcerated Individuals. HSD writes according to the Bureau of Justice, two-thirds of people in jail meet the criteria for drug dependence or abuse. Evidence strongly shows that the use of medication-assisted treatment (MAT) increases the likelihood of successful treatment for individuals with opioid use disorders and reduces morbidity and mortality (Jail-Based Medication-Assisted Treatment: Promising Practices, Guidelines, and Resources for the Field, Advocates for Human Potential, Inc., October 2018). Medication-assisted treatment (MAT) in correctional settings has been endorsed by the National Commission on Correctional Health Care, the American Society of Addiction Medicine, the National Governor's Association, the National Association of Counties, the National League of Cities, and the National Sheriffs Association.

A 2019 LFC report on substance abuse treatment and outcomes in New Mexico found that evidence-based substance use disorder (SUD) treatments are largely absent in New Mexico's jails, despite high rates of substance abuse in the incarcerated population. Only two county jails offer medication-assisted treatment (MAT) to inmates, and the report notes "one warden interviewed by LFC staff indicated that while his jail offered group therapy for substance abuse, its medical program did not offer MAT because the provider was philosophically opposed to treating addiction with drugs," although the "drugs," in this case, are regulated and effective medicines. In New Mexico, for instance, accredited adult residential treatment centers are required to provide MAT to be eligible to bill Medicaid because it is a standard of care for facility certification by the American Society of Addiction Medicine. Such requirements for standard of care do not apply to jails and prisons.

Prescription Monitoring Program. HSD reports benzodiazepines are widely prescribed and can be deadly when combined with alcohol and opioids. In 2018, Department of Health reported that benzodiazepines caused or contributed to 18 percent of all overdose deaths in the state (Benzodiazepine Use in New Mexico and the United States, New Mexico Statewide Epidemiological Outcomes Workgroup White Paper Series, April 2020). A state-sponsored survey of New Mexico's opioid prescribers indicates that 42.3 percent co-prescribe opioids and benzodiazepines. Although New Mexico licensing boards extended the requirement to check the PMP to all controlled substances, the survey shows inconsistency in PMP checks related to benzodiazepines (2017 & 2019 Opioid Prescriber Survey: Preliminary Results, Pacific Institute of Research and Evaluation, February 18, 2020). The New Mexico Overdose Prevention and Pain Management Advisory Council has issued guidelines for the use of benzodiazepines and recommends that prescribers review the PMP before writing new prescriptions, and then every three months for ongoing prescriptions (https://www.nmhealth.org/publication/view/guide/6327/). Adding a statutory requirement could improve prescriber compliance and help to reduce overdose deaths.

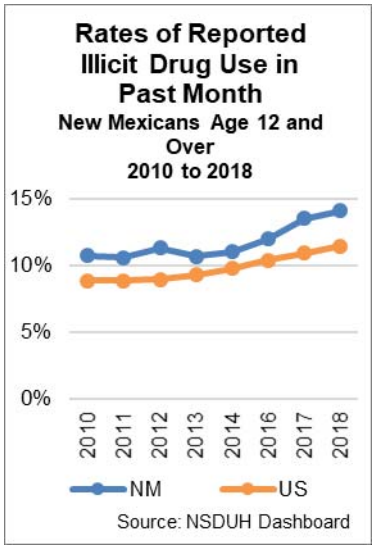
TECHNICAL ISSUES

New Mexico has among the poorest substance use and behavioral health outcomes in the country. The alcohol-related death rate in New Mexico, which increased 34 percent between 2010 and 2016, has been nearly twice the national average for two decades. The bill may wish to include medication-assisted treatment (MAT) for alcohol use disorder as well as for opioid use disorder.

The Department of Health indicates the use of medication assisted treatment could be expanded to include prisons. The bill could also contain additional requirements to provide linkage to care or a referral to a medical provider to continue MAT upon release without an interruption in care. Evidence shows release from incarceration is a critical period for risk for fatal and non-fatal overdose. Given these considerations, DOH suggests the following amendments:

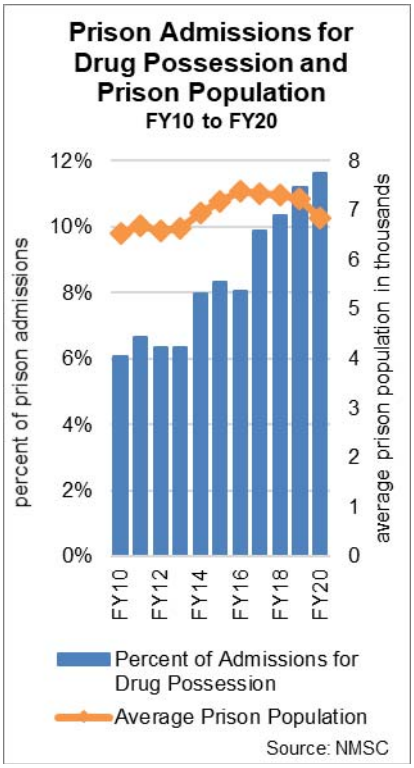
- Page 7, line 1, after "MUNICIPAL JAILS" add "AND PRISONS";
- Page 7, line 3, after "jail administrators" add "and prison administrators"'
- Page 7, line 5, after "under their supervision" add "including a referral to medical provider or other linkage of care services to prevent a disruption in treatment upon release from incarceration".

OTHER SUBSTANTIVE ISSUES



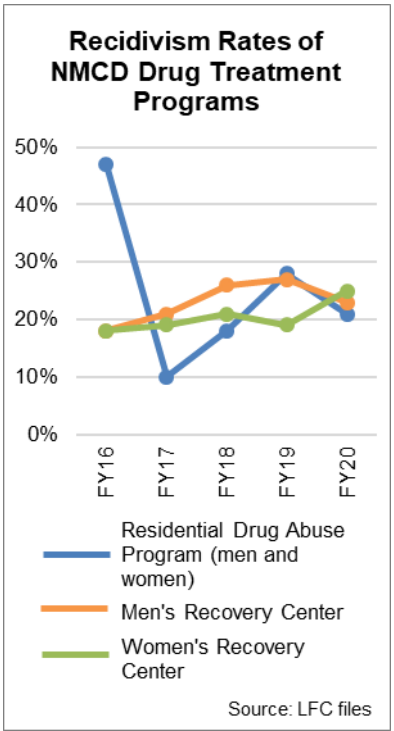
Substance Use Disorder and Criminalization. Research shows incarceration is not an effective solution to substance abuse. A 2017 report from the Pew Charitable Trusts examining all 50 states found no statistically significant relationship between state drug offender imprisonment rates and rates of illicit drug use, drug overdose deaths, and drug arrests.

According to data from the National Survey on Drug Use and Health, in 2018, 14.1 percent of New Mexicans over the age of 12 reported using illicit drugs in the past month, compared with 11.4 percent nationally. Rates of illicit drug use in New Mexico exceeded the national rate every year between 2010 and 2018, but between 2016 and 2018, the rate of New Mexicans reporting illicit drug use increased at almost twice the rate of the national increase. Insufficient treatment resources make addressing this issue difficult. A 2020 Department of Health gap analysis of substance use disorder treatment estimated only 34.3 percent of the estimated 204.7 thousand New Mexicans needing substance use disorder (SUD) treatment in 2018 received it.



Offenders sentenced for drug possession offenses comprise a growing share of prison and jail admissions, posing significant social and financial costs to the state. While the state's average prison population has declined 7.6 percent since FY16, the share of admissions made up of offenders whose highest charge was drug possession grew from 8 percent to 11.6 percent over the same period. According to the Sentencing Commission's July 2020 prison population forecast, New Mexico incarcerates people for drug crimes at a higher rate than the national average. New Mexico's high rates of substance use disorders and increasing illicit drug use suggest these trends will continue absent legislative intervention. A 2019 LFC report on substance abuse treatment and outcomes in New Mexico found stigma associated with addiction is a significant obstacle to broadening access to effective treatment, despite research showing substance use disorder is best understood as a potentially deadly but treatable chronic disease. The report noted that, while medication-assisted treatment (MAT) has been demonstrated to be safer and more effective than either psychotherapy or medication alone for treating SUD, "doctors must undergo special training and receive a license from the Drug Enforcement Agency to prescribe these drugs. Numerous doctors interviewed for this report indicated that stigma within the medical community prevents their colleagues from obtaining these licenses or utilizing them fully, and that stigma can make the leadership of health systems hesitant to implement comprehensive addiction programs for fear of becoming a magnet for 'those patients.'"

The 2019 report concludes that "effectively addressing substance abuse is difficult, in part, because it requires overcoming pervasive stigma. A wide body of research shows that SUD are best understood and treated as chronic illnesses. Yet too often they are instead viewed as symptoms of moral failure. Stigma can prevent people from seeking help and providers from offering it, and it can dissuade the public and policymakers from pursuing bold solutions. Framing SUD as a moral failing does not allow us to make the critical connections between the disease and its origins in social determinants like poverty and childhood trauma, and creates ambivalence when action is needed. New Mexico will not get ahead of this crisis until we replace stigma with informed understanding and respond to SUD as the public health crisis it is."



LFC has also raised concerns regarding SUD treatment within prisons. Currently, MAT is only available for pregnant women at Western New Mexico Correctional Facility, although the department is exploring options to expand MAT to other facilities. Additionally, although NMCD's Residential Drug Abuse Program (RDAP) (one of its largest in-prison approaches to address substance abuse) is evidence-based, it is not known how well it has been implemented. Significantly, LFC reported in 2007 and 2012 that an evidence-based therapeutic communities (TC) program within NMCD was failing to

produce expected outcomes because the implementation did not align with best practices. LFC's 2018 evaluation of NMCD's recidivism reduction programs noted RDAP is a type of TC, and NMCD could not demonstrate how RDAP differs from the underperforming TC model. The 2018 report recommended routine evaluation of programs such as RDAP, but NMCD has not undertaken such efforts.

Supervised offenders in the community (those on probation or parole) lack sufficient substance-abuse treatment resources. In FY19, only 8.5 percent of the estimated 12.6 thousand offenders needing such treatment were served by community corrections substance-abuse programs. The efficacy of NMCD's substance-abuse treatment services in the community is difficult to determine because the department only reports recidivism rates for the men's and women's recovery centers, which serve only a small fraction of offenders. These programs use a research-based, inpatient TC model, but using a research-based model does not guarantee success. A 2015 NMSC study found no statistically significant improvement on outcomes at the men's center, and since the department began reporting on recidivism of these programs' graduates in FY16, the recidivism rate has increased 5 percentage points at the men's facility and 7 percentage points at the women's.

Prescription Monitoring Program. The Department of Health reports current law in New Mexico requires that a practitioner must use the prescription monitoring program (PMP) prior to issuing an opioid prescription to a patient for the first time. The current law does not include benzodiazepines. However, all of New Mexico's medical professional licensing boards have regulations that require prescribers to check the PMP for all controlled substances, including benzodiazepines. PMP reports are collected and shared among most states. A registered New Mexico PMP user can access adjacent states' PMPs through the New Mexico PMP. Many states have policies to promote greater use of these systems as a clinical decision support tool:

- Forty-one states have laws that require health care providers to consult the PMP under certain circumstances;
- Forty-seven states share PMP data with other states; and
- Thirty-six states send unsolicited reports, or proactive communications, to prescribers to flag potentially harmful drug use or prescribing activity. (https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2020/04/policy-changes-could-bolster-prescription-drug-monitoring-programs).

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