

02/10/2023 Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Ortiz y Pino</u>	<b>LAST UPDATED</b> <u>02/17/2023</u>
	<b>ORIGINAL DATE</b> <u>02/09/2023</u>
<b>SHORT TITLE</b> <u>Developmental Disabilities Data</u>	<b>BILL NUMBER</b> <u>Senate Bill 203/aSHPAC</u>
	<b>ANALYST</b> <u>Chilton</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but moderate	Indeterminate but moderate	Indeterminate but moderate	Recurring	General fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent version of this legislation.

Relates to Senate Bill 260

### Sources of Information

LFC Files

Responses Received From  
 Human Services Department (HSD)  
 Department of Health (DOH)

## SUMMARY

### Synopsis of SHPAC Amendment

The Senate Health and Public Affairs Committee amendment adds subcontractors to agencies providing direct services to clients as “direct support professionals,” in the definitions section of the bill. Similarly, it applies the same addition of subcontractors to the definition of “direct support provider agencies.”

### Synopsis of Original Senate Bill 203

Senate Bill 203 requires the Department of Health to collect data every 12 months on the persons providing direct services to persons with disabilities, including their numbers and their compensation. It also changes methods of determining reimbursement for agencies and persons providing those services.

Section 1 of the bill amends the definitions including in Section 28-16A-3 NMSA 1978, the Developmental Disabilities Act. The definitions added are “direct support professional” and “direct support provider agency.” The latter is defined as having an agreement with HSD and

Medicaid to be paid for services to persons served under the Developmental Disabilities Waiver Program. “Direct support professionals” are those hired by those provider agencies.

Section 2 of the bill adds new language requiring HSD to aggregate data provided by provider agencies in April of each year on number of employees and wages and benefits. The employees’ demographic characteristics are also to be reported and collected by HSD. These data are to be analyzed by DOH, which is charged with reporting on the demographics of these providers, their recruitment and retention, and the availability of services being provided to individuals with disabilities. Reports are to be given to the Legislative Finance Committee, the Legislative Health and Human Services (Interim) Committee, and the Governor.

Section 3 of the bill changes the method of determining pay rates for providers of services to individuals with disabilities. Altering Section 28-16A-16 NMSA 1978, removes the requirement that DOH reduce services if the legislative appropriation for this purpose is inadequate. Provider reimbursement is to be assessed every 24 months, to include additional costs if each provider were to be paid 150 percent of the state’s minimum wage, augmented by inflation, with wages adjusted to attract workers to fill vacancies.

DOH’s annual budget request must include enough appropriations to cover recommended reimbursement rates according to the most recent cost study. Recommended reimbursement rates should be adjusted based on the legislative appropriation and the approval of the federal Center for Medicaid and Medicare Services approval process. The need to attract more providers in this field should be taken into account.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## **FISCAL IMPLICATIONS**

There is no appropriation in Senate Bill 203. HSD indicates possibly substantial costs. The Department of Health would bear the burden of having to gather and collate the data from the biennial survey and also the cost of making adjustments indicated by those assessments. A precise estimate of both types of cost is difficult to make but is likely to be substantial.

DOH estimates possible needs as follows, with no total estimate being possible:

Currently, if Developmental Disabilities Support (DDSD) [conducts a rate study every three years, as required by CMS, then that rate study is eligible for a 50 percent match rate (50 percent State General Fund and 50 percent Inter Agency Transfer Revenue from HSD). However, if the state chooses to conduct a rate study more frequently, the full cost of the \$500 thousand will be 100 percent State General Fund.

It is recommended DDSD add \$500 thousand every other year as the fiscal impact of this bill knowing that on the third year it can be matched.

It is important to get this funding in DDSD’s recurring Operating Budget, so DDSD does not have to reduce existing contracts to absorb the cost.

The cost to DOH for provider rate increases will be dependent on rate recommendations that result from biennial cost studies.

HSD would also be required to pay providers more if the assessments indicated that provider payment needed to be increased. Part of that cost would be matched through the Medicaid match.

## SIGNIFICANT ISSUES

According to a 2020 Legislative Finance Committee report entitled “Workforce Development Post Covid-19 Pandemic,” personal care aides and home health aides, who are among those providing services for people with developmentally disabilities, are high on the list among those with expanding job opportunities and low on the list of reimbursement. As noted in the table below:

**Table 2. Projected Growth in New Mexico Employment by Occupation, 2016 to 2026**

Occupation	Projected Growth	Average Annual Salary
Personal Care Aide	10,090	\$22,730
Home Health Aide	3,030	\$22,730
Construction Laborer	750	\$33,130
Information Security Analyst	250	\$109,550
Solar Photovoltaic Installer	123	\$43,260

Note: Table includes occupations representative of industries expected for the most growth, excluding those that make up a low proportion of employment.  
Source: BBER and WSD

The federal poverty level for an individual in 2022 was \$13,590; for a family of four, it was \$27,750. It may be difficult to recruit the additional workers needed to perform tasks in helping persons with disabilities if their wages are not increased.

## OTHER SIGNIFICANT ISSUES

DOH, which is currently engaged in a rate study and provider capacity assessment carried out by a contractor points out that

- Surveys every six months would be a burden on providers of services for people with developmental disabilities to provide this information by way of cost and time studies annually.
- If rate studies are being proposed to occur biennially, and the information requested is collected through the rate study process, it makes sense to only report on the provider data biennially.

## RELATIONSHIP

Related to Senate Bill 260, which updates references to terms and definitions related to disabilities.

## WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Vacancies in the fields of personal care and help for persons with disabilities may multiply and may be increasingly difficult to fill.