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FISCAL IMPACT REPORT

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| SPONSOR <u> SHPAC </u> | LAST UPDATED _____ |
| | ORIGINAL DATE <u> 02/01/2024 </u> |
| | BILL <u> CS/Senate Bill </u> |
| SHORT TITLE <u> Health Care Authority </u> | NUMBER <u> 14/SHPACS </u> |
| | ANALYST <u> Chilton </u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

| Agency/Program | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|---|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---|
| Transfer of Health Care Affordability Fund from OSI | | (\$89,070.0) | (\$105,750.0) | (\$194,820.0) | Recurring | Office of the Superintendent of Insurance |
| Transfer of Healthcare Affordability Fund to HCA | | \$89,070.0 | \$105,750.0 | \$194,820.0 | Recurring | Health Care Authority |
| HCA, ECECD, DOH, OSI | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | Nonrecurring | General Fund |

Parenteses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis on the Original Bill Received From
 Office of Superintendent of Insurance (OSI)
 Health Care Authority (HCA)
 Early Childhood Education and Care Department (ECECD)

Agency Analysis was Solicited but Not Received From
 Department of Health (DOH)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of the SHPAC Substitute for Senate Bill 14

The Senate Health and Public Affairs substitute for Senate Bill 14 enacts several changes in the functions of the Health Care Authority Department, renames it as the Health Care Authority, transfers several functions from the Office of Superintendent of Insurance (OSI), the General Services Department (GSD), and Department of Health (DOH) into HCA, changes language throughout many sections of New Mexico statutes to reflect the change from Human Services Department or Health Care Authority Department, and makes other changes in language throughout the affected statutes to correspond with current usage and revised agency names and terms.

Substantive changes include the following, with bill sections and amended statute, when relevant, noted.

- Section 4 (Section 9-8-4 of statute) changes references to the Health Care Authority Department to references to the HCA and leaves the same divisions in place.
- Sections 6 and 8 move references to the Behavioral Health Services Division from DOH (Section 9-8-6 of statute) to the section dealing with HCA (Section 9-8-7 of statute).
- Section 9 (Section 9-8-8 of statute) deals with agencies administratively attached to HCA. These include the Commission on the Status of Women and the Group Benefits Committee, but reference to the New Mexico Health Policy Commission is deleted.
- Section 15 (Section 10-7B-2 of statute) redefines director in the Group Benefits Act from the director of the Risk Management Division of the General Services Department to the director of the State Health Benefits Division of HCA. Adds “contracting for healthcare benefits” to “procurement” in defining the term “consolidated purchasing.”
- Section 18 (Section 10-7C-6 of statute) increases the size of the Retiree Health Care Authority from 12 to 13, adding the director of HCA’s State Benefits Division.
- Section 19 (Section 13-7-3 of statute)
- Section 21 (Section 24-14A-6 of statute) states health data may be shared with HCA as well as with federal government entities.
- Sections 22 to 25 create a new law, the Health Care Code, that expansively defines healthcare facilities (child facilities are excluded) to be regulated by HCA and lists the authority’s powers in this regard:
 - Take court action to enforce laws and rules,
 - Make joint powers agreements to carry out its authority,
 - Cooperate and contract with the federal government and other agencies to carry out its duties,
 - Cooperate and contract with Native American tribes and entities,
 - Make rules to carry provisions of the Health Care Code,
 - On confidentiality requirements, inspect clinical records as required to perform its oversight tasks.

The authority is to inspect and license health facilities according to the rules and criteria it makes and is to assure the confidentiality of records.

- Section 26 is a new statute, replacing Section 24-1-5 of statute, now to be Section 24A-1-5, removing from statute the provision that childcare centers without state or federal funding may apply for a waiver to the requirement that a license be posted.
- Section 27 (new Section 24-1-6 of statute) deals with the licensure of inpatient health facilities, removing the exception for child care facilities.
- Section 30 (Section 24-1-5.2 of statute, recompiled as Section 24A-1-6) redirects penalties paid by health care facilities to the general fund.
- Section 31 (Section 24-1-5.12 of statute, recompiled as Section 24A-1-10) establishes HCA instead of DOH as the entity to inspect rural hospitals.
- Section 61 (Section 27-1-3 of statute) tasks HCA with administering state welfare activities but removes a subsection that gives it dominion over all child welfare activities.
- Section 69 (Section 27-2-12.4 of statute) removes the requirement that HCA notify a long-term care facility “in writing” of deficient conditions at that facility.
- Section 113 (Section 27-9-1 of statute), states HCA will cooperate with the Aging and Long-Term Services Department instead of DOH regarding demonstration programs providing services to the frail elderly and to persons with disabilities.
- Section 120 (Section 28-16-15.2 of statute) designates HCA as the sole agency with

which the Developmental Disabilities Council (DDC) “shall cooperate.” In Section 15, direct support provider agencies have a relationship with the Developmental Disabilities Division of HCA, no longer of DOH.

- Section 123 (Section 28-16A-4 of statute) defines the Developmental Disabilities Council. It removes the secretary of DOH from the council and specifies the secretary of HCA as a member.
- Section 126 (Section 59A-23F-11) of statute) moves the health care affordability fund from OSI to HCA, although OSI would still have a consulting role. Section 141 of the bill would give HCA the authority to amend provisions of the health care affordability fund, to include eligibility for participation in use of the fund.
- Section 131 is a temporary provision, transferring the following functions from DOH to HCA:
 - Developmental Disabilities Supports Division
 - Health Improvement Division
 - Health Facility Licensing And Certification Bureau
 In addition, all aspects of the health care affordability fund would be transferred from OSI to HCA.
- Section 132 recompiles sections of statute currently in Section 24 that deal with HCA into a new Section 24A.
- Section 133 repeals the following sections of NMSA 1978:

| Section in NMSA 1978 | Title of section repealed |
|----------------------|---|
| 9-8-7.4 | Incarcerated persons; behavioral health services; county funding program |
| 24-1A-5 | Rural health care delivery fund |
| 24-1G-1 and 24-1G-2 | Sections stating the title and purposes of the “New Mexico Telehealth and Health Information Technology Commission Act” |
| 24-1K-1 and 24-1K-2 | Sections stating the title and purposes of the Primary Care Council |

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 14.

HCA states:

There are some reassignments of functions from the Department of Health and General Services Department to the Health Care Authority. Some of these functions have staff and funding attached via the HCA’s FY25 executive budget recommendation. Functions that may require additional staff, whether to administer funds, oversee programs, or provide administrative support, may have a fiscal impact to HCA. The fiscal impact remains to be determined.

SIGNIFICANT ISSUES

This bill establishes working procedures for and renames the Health Care Authority, in addition to transferring functions from DOH, the General Services Department, and OSI to HCA. There

will be issues that develop in the transfer of functions from one state agency to another, including the following, as indicated by OSI:

The Health Care Authority was established to better coordinate coverage and maximize state purchasing power. Bringing [health care affordability fund] programs under the same umbrella as Medicaid could create opportunities to better streamline coverage transitions and the continuum of care. The work that is performed by the Health Care Affordability Bureau is very closely related to the work performed by OSI staff with respect to regulation and oversight of qualified health plans. If transferred to the HCA, the bureau will need to continue to closely coordinate with OSI, as the established programs operate in markets regulated by OSI. The affordability programs are intertwined with existing state and federal regulations and guidance, and market dynamics will need to be closely monitored to ensure consumer benefits are maximized and that the programs are cost effective.

PERFORMANCE IMPLICATION

OSI indicates the need to transfer IT functions that it uses with the health care affordability fund, which would lead to the following problem:

Following a transfer to the HCA, [health care affordability fund] staff will only be able to continue to utilize SERFF [the System for Electronic Rate and Form Filing] if the HCA and OSI entered into a detailed [memorandum of understanding] or similar agreement outlining responsibilities, training, and access. Should the HCA not enter into such an agreement, it would require the development of a new data sharing platform and an agreement with OSI to obtain certain files from SERFF on a regular basis.

TECHNICAL ISSUES

HCA notes the following concern:

- To maintain the confidentiality of reports related to allegations of abuse, neglect and exploitation, the HCA recommends adding on page 43, subsection N. line 13 “or home and community-based Medicaid waiver service providers” after the word “facilities.”

Other HCA and ECECD technical concerns with the original bill have been addressed in the committee substitute.

LAC/hg/al/rl