

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/17/25 *Check all that apply:*
Bill Number: SB407 Original Correction
 Amendment Substitute

Sponsor: Sen Lopez **Agency Name and Code** HCA-630
Short Title: Wrongful Conviction Comp and Services Act **Number:** _____
Person Writing Jeanelle Romero
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0.0	\$9,000.0	Recurring	State General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.0	\$0.0	\$0.0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
ISD GF	\$0.0	\$86.7	\$86.7	\$173.4	Recurring	General Fund
ISD FF	\$0.0	\$115.1	\$115.1	\$230.2	Recurring	Federal Fund

MAD	\$0.0	\$102.95	\$102.95	\$205.9	Recurring	General Fund
Total	\$0.0	\$189.65	\$189.65	\$379.3	Recurring	General Fund
System Changes	\$0.0	\$2,800.0	\$4,300.0	\$7,100.0	Nonrecurring	General Fund
TOTAL HCA	\$0.0	\$2,989.7	\$4,489.7	\$7,479.3	R & NR	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB407 would enact a wrongful conviction and compensation and services act, providing for damages and other relief for the wrongfully convicted person; requiring notice of the rights to file a petition for relief, and rulemaking creating the wrongful conviction compensation fund making an appropriation. The Health Care Authority (HCA) would need to provide eligibility for food; utility; and health, vision and dental benefit assistance (through Medicaid or other program) to the individual for a period of 2 years from date of release **at no cost** to the person and without meeting applicable eligibility requirements.

SB407 also allocates a Medicaid personal spending allowance pursuant to Section 27-2-12.9 NMSA 1978.

Within 120 days of the effective date, HCA would be required to promulgate rules, create an application form, designate the person or division within the health care authority to process applications, document and implement procedures to ensure a determination on each application is made and communicated to the applicant within 14 days of submission of the application; and commence benefits within 7 days of approval of an application.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

ISD Fiscal Implications: HCA Income Support Division (ISD) is responsible for determining eligibility for essential programs such as Supplemental Nutrition Assistance Program (SNAP), Cash Assistance, Low Income Home Energy Assistance Program (LIHEAP), and Medicaid. Due to the complexities involved in eligibility determination and case management, as SB 407 is written ISD is finding it challenging to accurately estimate the required staffing levels to effectively manage these programs. The eligibility staffing needs are directly tied to the volume of cases expected, which remains uncertain as SB407 is written. However, ISD anticipates the need for additional resources to ensure efficient managing of the program. Specifically, the program would require two Full-Time Employees (FTE) dedicated to the program management:

1. **Management Analyst III (Pay Band 65)** – This role will be responsible for determining eligibility, ensuring compliance with program guidelines. The total cost for this position is estimated at \$92.4 thousands annually (\$32.0 GF, \$60.4 FF).
2. **Social and Community Services III (Pay Band 70)** – This role will be responsible for managing rule changes, overseeing program requirements, and providing ongoing

supervision of the eligibility determination process. The total cost for this position is estimated at \$109.4 thousands annually (\$54.7 GF, 54.7 FF).

These positions are essential to ensure that eligibility determinations are made in a timely, accurate, and efficient manner. Without this additional staff, ISD risks delays in processing, which could result in noncompliance with the requirements stated in SB 407.

MAD Fiscal Implications: Implementation of SB407 is anticipated to require ASPEN eligibility system changes, including:

- Application changes (Apply for benefits, BeWellNM, paper applications),
- Data collection screen changes with conviction reversal decision information,
- Prioritization of application registration tasks based on wrongful conviction flag,
- A new category of eligibility (COE) for a public assistance program; the COE shall follow the Non-Financial, Financial, Assets, Verification and Recertification rules/policy for the General Assistance Program,
- All other services such as health care coverage shall be administered following the current policy/rules,
- Correspondence changes (Notice of Case Action, Help Us Make a Decision, and the ISD 120 form),
- Reports and Dashboard changes, and
- Data transfer (export and import).

The total estimated cost of the ASPEN and Unified Portal (UP) changes needed is \$7,100,000. The expectation is the \$7,100,000 will be all state general funds with no federal match allowed to make these changes. The estimated time to complete all the system changes is about 22 months.

MAD estimates FTE requirements of two (2) FTE for a total cost of \$227,000 recurring:

1. **Social and Community Services III (Pay Band 70)** \$97,400 with \$48,700 in general fund and \$48,700 in federal funds) to track eligibility applications.
2. **Social and Community Services Supervisor (Pay Band 75)** \$108,500 with \$54,250 general fund and \$54,250 federal funds to design program requirements and coordinate with ISD.

To meet the 2-year, Medicaid personal spending allowance required, based on the state statute cited, the state estimates a \$95.00 per month payment to each individual. The state assumes no federal match would be allowed, requiring payments to be made from state general funds. HCA cannot estimate cost without additional data about the potential population.

To pay the required \$2000/month stipend and address any potential shortfall in benefits, SB 407 allocation of state general funds would be used to ensure the individual receives the maximum benefit as outlined in the bill.

SIGNIFICANT ISSUES

To meet SB407 requirements for a Medicaid personal spending allowance, the state will need to create a mechanism for issuing and tracking monthly payments of the Personal Needs Allowance (PNA). Section 27-2-12.9 NMSA 1978 specifically refers to Medicaid PNA increases.

SB407 requires the provision of health, vision, and dental insurance coverage at no cost for two years from the date of release through Medicaid, the New Mexico health insurance exchange, or another comparable health insurance program. To maintain these benefits, the state may need to

use only state general funds if federal matching funds for alternative health care coverage is not available.

Typically, coverage of health care services using only state general funds is provided on a fee-for-service basis for a specific set of claims that can not be paid through Medicaid (due to the recipient not meeting Medicaid eligibility qualifications).

The language in SB 407 conflicts with federal regulations for determining eligibility for SNAP, Medicaid, Cash and LIHEAP. SB 407 provides a person with a \$2000.00 a month stipend for two years and entitles them to SNAP, Medicaid, LIHEAP, and Cash programs plus other support services. SB 407 requests a SGF appropriation to issue benefits which would be countable towards the federal programs administered by ISD.

Page 13 lines 16-20 and Page 14 lines 1-15 conflicts with federal law as federal law requires an individual to meet the standard financial and nonfinancial eligibility requirements.

Page 19 line 1, HCA would not be able to implement by July 1, 2025.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

SB 407 will require HCA to promulgate rules, create an application form to apply for benefits, process applications within 14 days of the date of application.

The proposed effective date introduces significant barriers to the appropriate staffing (creation, recruitment, and onboarding) needed for successful program implementation and management.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS