2003

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FISCAL NOTE

SENATE PUBLIC HEALTH, WELFARE & SAFETY
EXHIBIT NO. 8
DATE 1-28-05
BILL NO. SB 257

Bill #: SB0192 **Title:** Eliminate certificate of need for health care facilities

Primary Sponsor: J. O'Neil **Status:** As Introduced

Sponsor signature Date Chuck Swysgood, Budget Director 1/20/03 Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$3,665,769	$3,788,798
Federal Special Revenue	$9,874,286	$9,976,499
Revenue:		
General Fund	($8,360)	($8,360)
Federal Special Revenue	$9,874,286	$9,976,499
Net Impact on General Fund Balance:	($3,674,129)	($3,797,158)

- ☐ Significant Local Gov. Impact
- ☐ Included in the Executive Budget
- ☐ Dedicated Revenue Form Attached
- ☒ Technical Concerns
- ☒ Significant Long-Term Impacts
- ☒ Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Public Health and Human Services (DPHHS)

Senior and Long Term Care Division

1. Any increase in beds will result in an increase in caseload for the Medicaid program beyond the level that is currently in the executive budget request for the Senior and Long Term Care (SLTC) division. Nursing facility services are an entitlement under the Medicaid program.
2. It is assumed that the Federal Medicaid Assistance Participation rate is 27.12 for FY 2004 and 27.57 for FY 2005
3. The FY 2003 statewide average Medicaid nursing facility rate (total funds) is currently $83.56 per day.
4. The cost of one additional Medicaid eligible person going into a nursing facility is $30,499 per year ($83.56 x 365 days).
5. For the purpose of this fiscal note it is assumed that there will be a 1 percent increase in Medicaid reimbursed long-term nursing home beds.

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6. A 1 percent increase in utilization is approximately 34 additional beds that would be reimbursed by the Medicaid program, resulting in a fiscal impact of $2,073,960 (total funds) for the biennium ($34 beds x 365 days x $83.56 x 2 years).
7. A 1 percent increase in utilization would result in a cost to the general fund of $567,124 and federal funds of $1,506,836 for the biennium
   a. FY 2004 $1,036,980 x .2712 = $281,229 $1,036,980 x .7288 = $755,751
   b. FY 2005 $1,039,980 x .2757 = $285,895 $1,036,980 x .7243 = $751,085

Disability Services Division

8. Current Certificate of Need (CON) Guidelines state that no new Intermediate Care Facility/Mental Retardation (ICF/MRs) will be approved nor will any expansion of existing ICF/MRs be approved unless the Home and Community Based Wavier program ceases to exist.
9. With the repeal of the CON program for this category of service we could expect that there may be increased construction or conversion of facilities into ICF/MRs, which are a Medicaid funded service in the Disability Services Division, in order to meet the needs of those individuals on the current Developmental Disabilities (DD) waiting list, which is currently 170 adult individuals.
10. With the repeal of CON for this category of service there is a potential for building of 21,8-bed, ICF/MR facilities by non-profit providers to serve the unmet need of the individuals on the waiting list (170 individuals / 8 beds = 21 facilities).
11. The only small DD ICF/MR that was paid for by the Medicaid Program was Orchard View (an 8-bed ICF/MR). In FY 2000, it was decertified as an ICF/MR and transferred from the Senior and Long Term Care Program to the DD Program where it currently is reimbursed as an intensive group home under the waiver program. Prior to de-certification and transfer, Medicaid was paying approximately $191.00 per day for each resident in this facility.
12. ICF/MR services are an entitlement if provided in a licensed ICF/MR facility and would qualify for Medicaid reimbursement for the individuals that reside in this setting.
13. These individuals are SSI eligible in the community and would meet the Medicaid criteria for payment purposes in the ICF/MR setting.
14. ICF/MRs are a cost-based reimbursement under the current Medicaid administrative rules.
15. It is assumed that the FMAP rate will be 27.12 for FY 2004 and 27.57 for FY 2005.
16. It is assumed that the daily rate of reimbursement has grown at .18 percent per year since FY 2000 resulting in a daily reimbursement rate for FY 2004 of $201.50 and for FY 2005 of $205.13 (FY2001: $191.00 x 1.018 = $194.44; FY 2002: 194.44 x 1.018 = $197.94; FY 2003: $197.94 x 1.018 = $201.50; FY 2004: $201.50 x 1.018 = $205.13)
17. The total impact for placement of 170 adult individuals into ICF/MRs for the biennium would be $25,231,392 of which $6,900,031 is general fund and $18,331,361 is federal funds.
    a. FY 2004 170 adults x 365 days x $201.50 = $12,503,075.
        i. GF $12,503,075 x .2712 = $3,390,834
        ii. FF $12,503,075 x .7288 = $9,112,241
    b. FY 2005 170 adults x 365 days x $205.13 = $12,728,317
        i. GF $12,728,317 x .2757 = $3,509,197
        ii. FF $12,728,317 x .7243 = $9,219,120

Quality Assurance Division

18. It is assumed that the position currently performing duties for CON will be reassigned to other duties that are paid at a 50/50 split between general and federal funds resulting in a decrease to the general fund and an increase to federal funds of $6,294.

19. There is an application fee for CON that goes directly to the general fund. This will cause a loss of approximately $8,360 per year.

Office of Public Instruction (OPI)

20. The Office of Public Instruction makes payment for educational services for children who are attending residential treatment centers and children's psychiatric hospitals. Because Intermountain Children's Home is neither a residential treatment center nor a children's psychiatric hospital, language in 20-7-436 was included for the specific purpose of ensuring that Intermountain received payment. The Intermountain Children's Home was and continues to be licensed as a therapeutic group home (not a residential treatment center). The choice of language in 20-7-436 concerning the certificate of need was used in lieu of specifically naming Intermountain in state statute. At the time legislation was passed obligating Office of Public Instruction to make these payments, the only program that held a certificate of need pursuant to title 50, chapter 5, part 3, (and who was not otherwise already eligible for payment) was Intermountain.
21. During fiscal year 2002 OPI made payments to Intermountain Children's Home that totaled $211,597. Under Senate Bill 192, Intermountain will be denied these payments. Because Intermountain is a group home, education of children attending Intermountain will become the responsibility of the Helena school district. The cost of educating children who are residents of the Helena school district will become the responsibility of the Helena district. The Helena district will be able to collect tuition payments for nonresident children provided that the students are enrolled in and served by the public school.

FISCAL IMPACT:	FY 2004 Difference	FY 2005 Difference
Senior and Long Term Care		
Expenditures:		
Benefits	$1,036,980	$1,036,980
Funding of Expenditures:		
General Fund (01)	$281,229	$285,895
Federal Special Revenue (03)	755,751	751,085
TOTAL	$1,039,980	$1,039,980
Revenue:		
Federal Special Revenue (03)	$755,751	$751,085
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($281,229)	($285,895)
Disability Services Division		
Expenditures:		
Benefits	$12,503,075	$12,728,317
Funding of Expenditures:		
General Fund (01)	$3,390,834	$3,509,197
Federal Special Revenue (03)	9,112,241	9,219,120
TOTAL	$12,503,075	$12,728,317
Revenue:		
Federal Special Revenue (03)	$9,112,241	$9,219,120

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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($3,390,834)	($3,509,197)

Quality Assurance Division

Expenditures:		
Personal Services	$0	$0
Funding of Expenditures:		
General Fund (01)	($6,294)	($6,294)
Federal Special Revenue (03)	6,294	6,294
TOTAL	$0	$0
Revenue:		
General Fund (01	($8,360)	($8,360)
Federal Special Revenue (03)	(6,294)	(6,294)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):		
General Fund (01)	($2,066)	($2,066)

LONG-RANGE IMPACTS:

Senior and Long Term Care

An increase in capacity and number of nursing facility beds may result in a decrease in the overall occupancy statewide in nursing facilities. An increase in unused capacity results in more beds available and the lower occupancy rate per day will increase the individual costs per day for the services due to fewer users to spread the costs over. Pressure will be placed on the Medicaid program to pay for these higher costs.

As a smaller number of individuals needing nursing home services are shared over a greater number of beds, the financial viability of facilities that currently exist are called into question. Current occupancy data shows that there is no increase in the numbers of individuals that are utilizing nursing home services. Many nursing facilities are currently operating at less than 50 percent occupancy in many areas of the state. These at risk facilities will potentially close due to declining occupancy levels.

The shortage of qualified health care staff to provide services in the health care industry is an issue. To the extent additional beds are added the need for additional health care staff will also increase. If no additional health care staff are available, staff will be hired from existing medical providers creating additional stress on the ability to provide health care and the cost of providing services.

Disability Services Division

Currently, cost containment for developmental disability community residential services is achieved through contractual arrangements that provide funding based upon the amounts appropriated by the Legislature. Providers of these services could potentially increase the reimbursement received for services in these settings by converting such facilities to certified ICF/MRs facilities. With the removal of the CON requirement and the related moratorium on the development of ICF/MR facilities in the state, providers will likely seek conversion of their existing facilities to the higher reimbursement ICF/MR service setting. A majority of the existing residential community services facilities could be converted to meet the federal ICF/MR standards.

Since ICF/MR services are provided by the State as a Medicaid service, the State could not deny ICF/MR Medicaid reimbursement to those facilities that are successfully converted to certified ICF/MR facilities.

TECHNICAL NOTES:

Disability Services Division

1. The historic rate of reimbursement for the de-certified Orchard View ICF/MR appears to have been lower than the rates paid by other states for the reimbursement of costs of services at small ICF/MRs. The fiscal impact stated here based upon the Orchard View reimbursement is likely an underestimate of the rates of reimbursement that would be necessary to meet the costs of services for newly established small ICF/MRs.