

2010 LEGISLATIVE SPECIAL SESSION POST-SESSION REPORT

By Jim Jackson, Executive Director
DISABILITY RIGHTS NEW MEXICO
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State Budget, Tax Package Pass in Special Session. It took an extra 3 days, but state legislators finally reached agreement on a state budget for the year that begins in July. The final spending and tax measures passed Wednesday and Thursday, and the weary lawmakers left for home late Thursday afternoon. The votes were largely along party lines.

The final version of the budget cuts most state agency spending by 2-3%, although public education was only cut 1.2%. Fortunately, Medicaid was protected in the budget, and the DD waiver even received a small increase in funding to serve some of the individuals now on the waiting list. Total state spending for the coming year will be around \$5.35 billion, compared to \$5.7 billion in the current year and \$6.1 billion last year.

There would have been much deeper spending cuts were it not for the package of tax increases that was approved, which will bring in an extra \$240 million or so in additional state revenue. These measures include a 1/8% increase in the state gross receipts tax (a penny on each \$8 purchase), re-instatement of a small portion of the tax on food purchases (around 2%), elimination of a certain tax benefit for tax payers who itemize deductions, and a 75 cents per pack increase in the tax on cigarettes.

Appropriation levels for health and human services programs were largely unchanged compared to the amounts that had been separately approved by the House and the Senate during the regular legislative session. However, cuts to public health and other programs in the Department of Health that had been made in the Senate last month were restored in the final version approved in the special session.

Waiting for action by the Governor. The governor has not yet signaled whether he will sign all of the special session bills into law, and he has 20 days to make his decision. A veto of any of the tax legislation, though, would unbalance the state budget bill and likely create a need for another special session later in the year. Most of the bills that passed during the regular session, which ended two weeks ago, are also still awaiting final action by the governor. He can either sign them into law, veto them, or let them die by not signing them (the so-called “pocket” veto). He has until March 10 to take action on the regular session bills.

Highlights of Final HB 2 – The state budget bill

Medicaid: The final budget includes around \$620 million in general fund state match for Medicaid programs in the Human Services Department, which includes \$22 million from the Tobacco Settlement Fund. Medicaid also receives a one-time appropriation of \$5.5 million to address some of the shortfall in the current year (FY 10) budget. This \$5.5 million was

appropriated last year for the DD waiver waiting list (\$4 million) and for additional behavioral health services for children (\$1.5 million) but was not spent for those purposes. According to the latest projections by the Human Services Department, the total appropriation for Medicaid should come very close to the amount needed to continue the program in its current form in state FY 2011, without requiring further reductions in benefits or payment rates. These projections do include continuation of cost containment measures that have already been imposed in the program, such as 3% cuts in the rates paid to most health care providers, which are expected to save an estimated \$300 million in combined state and federal funds in the coming year.

Developmental Disabilities: The final version of the state budget bill includes \$2.25 million in new state funds to serve persons who are on the waiting list for the DD waiver, and an extra \$65,000 for a summer camp for children with autism (Camp Rising Sun, sponsored through the UNM Center on Development and Disability). The base funding level for the DD waiver was reduced to \$58.3 million in state funds, reflecting removal of funds appropriated last year that DOH did not spend for the waiver and taking into account the higher level of federal matching dollars expected this coming year. Legislative staff believe this is enough funding to continue services for current waiver recipients in the coming year, but DOH disagrees and is likely to consider benefit cuts or rate cuts this year. The budget bill also includes language limiting attorney fees and court-related expenses in the Jackson lawsuit to \$100,000. If not vetoed by the governor, this language is likely to lead to additional legal expenses to the state as the limitation is challenged in federal court.

Other Disability-Related Budgets. In the final budget bill:

- State funding for non-Medicaid behavioral health was cut by 2%, but a significant drop in federal funds (including the end of the “transformation” grant) will result in elimination of 26 staff positions in the Behavioral Health Division, which is 40% of the division’s total staff.
- Total funding for DVR is down 6.6% from the original funding level for this year, although only around \$300,000 less than what the agency requested last fall. This is not enough to match all available federal money, and may cause DVR to have to pay a penalty for not maintaining the previous level of state support. Independent Living services funded through DVR are reduced to the FY 2009 level – \$45,000 less than originally budgeted for FY 10.
- Contract services at the Office of Guardianship are around \$300,000 less than the original budget for FY 10. This is substantially less than what the agency projected it would need in FY 2011 to keep up with increased demands for services from the courts, Adult Protective Services, and other referral sources. The Office is already looking to restrict services for new cases to those where there is a serious emergency.

“Sanding” and Exemptions. In addition to the cuts that most state agencies received in their budgets, HB 2 also imposes an additional cut across the board of a bit more than ½% of the amounts appropriated to each agency. This type of cut is often referred to as “sanding”. Due to strong support in the legislature, the Medicaid program and the DD waiver program were specifically exempted from this further budget reduction. HB 2 also gives the governor the authority to reduce the level of spending authorized by the legislature if it is determined that actual state revenues turn out to be less than anticipated. Medicaid and the DD waiver are also exempted from this provision and cannot be reduced by the governor.