



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

2018 LEGISLATIVE SESSION PREVIEW

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Disability Rights New Mexico

January 4, 2018

Session dates: This is a short (30 day) session. It starts on Tuesday, January 16, 2018 and ends on Thursday, February 15.

Coming Events:

Jan. 13 – Pre-Legislative-Session Forum DRNM and The Disability Coalition team up again to present this update on state disability issues, developments in Washington that affect New Mexico, the state budget outlook, and a preview of disability-related legislation expected in the 2018 session. This year’s luncheon speaker will be Rep. Liz Thomson. The afternoon program is a legislative advocacy training. At the Jewish Community Center, 5520 Wyoming Blvd. NE in Albuquerque. For details and registration information, go to www.drnmm.org.

Jan. 17 – Behavioral Health Day at the Capitol

Jan. 18 – Alzheimer’s Day at the Capitol

Jan. 25-26 – Disability Rights Awareness Days in Santa Fe. Thursday at the Drury Plaza Hotel and Friday at the State Capitol. Opening keynote address by Secretary of State Maggie Toulouse Oliver. Plenary sessions, an afternoon full of workshops, exhibits by sponsoring agencies, awards to legislative champions, updates on legislative developments, and more! For details and registration information, go to www.drnmm.org.

The Budget Outlook

The state budget to be adopted by the Legislature during the 2018 session is for FY 2019, which is the period from July 1, 2018 through June 30, 2019. The budget will establish spending levels for all state agencies.

The total amount of state spending approved in the budget depends heavily on the amount of revenue available to fund state operations. The current official “consensus” state revenue estimate for FY 19, issued last month, is \$6.28 billion. That’s about \$199 million more than what is authorized for state spending in the current year. This is referred to as the amount of “new money” that legislators might choose to spend in FY 2019. This is quite a change from the past few years, when budget cuts were needed due to reduced revenues.

In fact, the Legislature may have even more funding available to work with. Revenue tracking by staff of the Legislative Finance Committee shows that state income for the first four months of FY 18 (through Oct 2017) is \$292 million more than for the same period last year and \$66 million ahead of

the consensus revenue estimate for FY 18 to date. If that trend continues, the amount of “new money” available to spend in FY 19 could exceed the current \$199 million estimate.

The state’s reserve funds have also seen a major boost. Total reserves on July 1, 2016 amounted to only \$147 million. By July 1, 2017, those reserves had grown to \$505 million (an amount equal to 8.3% of total state spending). The official estimate is that those reserve funds will grow to \$550 million by July 1, 2018, but recent increases in state revenues will likely result in an even higher level of reserves by then.

The favorable financial situation will change some of the political dynamic of the past few years, which saw the Democratic leadership of the legislature trying to raise revenues to avoid budget cuts while Governor Martinez held firmly to a “no new taxes” position.

The governor and the Legislative Finance Committee are expected to release their budget recommendations for FY 19 any day now. But it already appears that in the 2018 session, the focus of the budget debate will be on how much of an increase in spending to approve, and what to spend it on.

State Agency Budget Requests.

Human Services Department. HSD’s latest estimate is that it will need an additional \$68.3 million in state funds in the coming year for the Medicaid program. However, nearly half that amount – \$31 million – would be unnecessary if the Congress re-authorizes and funds the Children’s Health Insurance Program (CHIP), which is considered likely. If that happens, HSD would need only \$37 million in new money in the coming year.

HSD’s cost projections for FY 2019 were originally much higher, but have come down recently because Medicaid enrollment has been dropping since this past spring. From a high of close to 909,000 in all eligibility categories in March of 2017, enrollment dropped to a little over 852,000 by November. HSD now predicts that enrollment will increase over the next 18 months to 887,000 by July of 2019, a number well below previous projections.

In addition to the recent decline in enrollment and projections for moderate growth in the coming year, HSD’s relatively low budget request reflects that over the past year, average per-person spending in the Medicaid program has actually gone down by 2%.

The Behavioral Health Services Division of HSD, which focuses on services and populations not covered by Medicaid, expects to see a small increase in federal funding in the coming year, but is not requesting any new state funding.

Department of Health. This is the agency that administers the Developmental Disabilities waiver programs, including the Mi Via self-directed program, as well as the Family Infant Toddler early intervention program. It also funds some services for persons with autism and a limited “flexible supports” program.

The department anticipates that it will need an extra \$1.5 million for these DD programs in the current year (FY 18) to meet the needs of those currently in the program, and has asked the legislature for a “supplemental” appropriation to close that budget gap. DOH expects that the additional costs of

servicing those already in these programs, above the current appropriation level, will grow to over \$2 million in FY 19, so it is requesting a budget increase in that amount.

Unfortunately, DOH is not requesting any new funding to increase enrollment in the DD waiver program and reduce the size of the waiting list. There are now over 6,500 people on the list, and the average time spent waiting until a person reaches the top of the list is over 10 years.

DOH is also seeking a small appropriation (about \$12,500) for new computer programming for the Health Certification, Licensing and Oversight Division that would allow the Department to track trends in reported incidents of abuse, neglect or exploitation for the most vulnerable at-risk populations overseen by the Department. Federal Medicaid funds would cover the vast majority of costs for the project.

Anticipated Legislative Proposals in the 2018 Session: The disability-related issues that we expect the Legislature to address this year are listed below. Listed first in each category are bills that have been “pre-filed” in advance of the session and have already been assigned a bill number. These bills will be introduced officially once the legislative session begins. It is very likely that other legislation directly affecting persons with disabilities will also be introduced during the session. The deadline for introducing most bills is the half-way point of the session, which this year will be Wednesday, January 31st.

Behavioral Health/Mental Health

Pre-filed:

HJM 2 In-patient services in southern New Mexico. Rep. Joanne Ferrary. This memorial calls on the Legislative Finance Committee to develop a plan to provide inpatient beds for mental health patients in southern NM, initially through contractual arrangements and then through construction of one or more new facilities.

SJM 1 Veterans Suicide Prevention. Sen. Jeff Steinborn. Calls on the Veterans Services Department to convene a task force to hold hearings around the state to gather input on how to reduce the incidence of suicide among New Mexico veterans.

Expected:

- Licensure of “wilderness camps”: Rep. Rebecca Dow is expected to introduce a bill clarifying the authority of the Children, Youth and Families Department to license residential “camp” facilities that serve teens with behavioral issues. Similar bills have been introduced in recent sessions but have not passed.
- IPRA amendments. A bill may be introduced to amend the provisions of the state Inspection of Public Records Act (IPRA) to exclude lapel camera videos of police encounters with persons with mental illness when such encounters are not directly related to criminal behavior.

Developmental Disabilities

Expected:

- The Legislative Health and Human Services Committee has endorsed a bill, likely to be introduced by Rep. Miguel Garcia, that would appropriate an additional \$25 million for the DD waiver program. The funds could be used to increase rates, provide additional services, and take people off of the waiting list.

- There may be a memorial introduced to renew the Autism Task Force that developed some initial recommendations this past year pursuant to HM 51.

Healthcare/Medicaid

Pre-filed:

HB 42 Limitations on “Step Therapy”. Rep. Liz Thomson and Rep. Monica Youngblood. Imposes some restrictions on (but does not prohibit) “step therapy” or “fail first” requirements in health insurance policies, whereby an individual has to try common or lower cost prescription drugs first, and show that they don’t work, before use of a more expensive drug is allowed.

SB 11 Limitations on “Step Therapy”. Sen. Gay Kernan and Sen. Liz Stefanics. Identical to HB 42.

SM 3 Study Possibility of Medicaid Buy-in Plan. Sen. Jerry Ortiz y Pino. Calls for a study by the Legislative Health and Human Services Committee of the feasibility of allowing low/moderate income individuals the opportunity to “buy in” to the state Medicaid program by paying a small monthly premium.

SM 4 Movement Disorders Center at UNM. Sen. Jerry Ortiz y Pino. This memorial calls on the Regents of the University of New Mexico to develop a plan to establish a Movement Disorders Center at UNM to provide services and support to persons with movement disorders and their caretakers. Movement disorders include Parkinson’s Disease, Huntington’s Disease, tremors and other disorders.

Guardianship/Conservatorship/ Protective Orders

Pre-filed:

SB 19 Uniform Guardianship and Conservatorship Code. Sen. Jim White. This bill involves a complete re-write of state law dealing with guardianship and conservatorship, based on a model state law developed by a national commission. The bill would require notice to a wide range of interested persons prior to any court hearings in such cases, and cause most such hearings to be open to those interested parties; assure legal representation in proceedings for any person alleged to be in need of a guardian or conservator; and impose new and more detailed annual reporting requirements on those serving as guardians or conservators. There would be a stronger requirement to show that less restrictive arrangements, such as supportive decision-making, would not work for the individual.

Service Provider Issues

Expected:

- It’s likely we will see another proposal to transfer the Division of Vocational Rehabilitation (DVR) from the Public Education Department (PED) to the Department of Workforce Solutions.

Contacting your Legislators

Before the session starts on January 16, you can still contact your legislators in their home communities. You can find out who your senator and representative are and get their contact information on the Legislature’s web page: https://www.nmlegis.gov/Members/Find_My_Legislator.

From this page, choose “Search by Name, District or your Address” for either the House of Representatives or the Senate. Then ...

- Enter your full home address in the box provided under “Your Address” and click on “Go”.
- Scroll down to find a picture of your Representative or Senator.
- Click on his or her name to get contact information.
- From the same page with the picture you can choose a different political body to find out who else

represents you in Santa Fe or in the U.S. Congress.

Once the session starts, each legislator will have an office in the Capitol. You can find the office phone number in the contact information provided through the Find My Legislator function, or you can call the Capitol switchboard at 986-4300 and ask to be put through to the office of any legislator. We encourage you to bring the voice of the disability community to the Legislature!

Policy and Legislative Action Network (PLAN): Join your friends and colleagues in working to promote favorable action on issues of concern to people with disabilities and their families. Become part of the PLAN! We'll let you know when there are opportunities to speak out on bills in the Legislature and other key issues, and give you background info and talking points; you show the power of the disability community by following up with calls or emails to public officials. Sign up by sending an email to info@drnm.org and put PLAN in the subject line.