

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Senate Finance Committee</u>	LAST UPDATED <u>3/13/2025</u>	ORIGINAL DATE <u>2/18/2025</u>
SHORT TITLE <u>Health Care Provider Gross Receipts</u>	BILL NUMBER <u>CS/Senate Bill 249/SFCS</u>	ANALYST <u>Faubion</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Implementation - HCA	\$0.0	\$45.0	\$0.0	\$45.0	Nonrecurring	General Fund
Implementation - HCA	\$0.0	\$450.0	\$0.0	\$450.0	Nonrecurring	Federal Funds
Total	\$0.0	\$495.0	\$0.0	\$495.0	Nonrecurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Taxation and Revenue Department
 Department of Health
 Health Care Authority
 NM Attorney General's Office

SUMMARY

Synopsis of the SFC Substitute for Senate Bill 249

The Senate Finance Committee substitute for Senate Bill 249 (SB249) requires managed care organizations (MCOs) to reimburse health care providers for all gross receipts taxes (GRT) they pay on Medicaid services. Under this bill, when a provider contracts with an MCO for Medicaid reimbursement, the MCO is required to provide documentation that clearly separates the reimbursement for health care services from the amount reimbursed for GRT.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted.

FISCAL IMPLICATIONS

HCA notes this bill would likely require the Medicaid program to provide an itemized list that includes information on the service items that are paid and the associated GRT amounts. The itemization requirement would require a system change and training given to providers and the MCOs. To comply with the itemization required by this bill, a system change would be needed in

addition to training providers and the Medicaid managed care organizations (MCOs) to submit claims for reimbursement with the tax amount recorded by line. The system change would be made at a cost of \$450 thousand at a 90 percent federal financial participation rate; the general fund cost is \$45 thousand.

SIGNIFICANT ISSUES

Currently, GRT is included in the reimbursement rates paid to Medicaid managed care organizations (MCOs), which then negotiate contracts with providers to determine how GRT is covered. The state does not directly pay GRT but factors it into MCO payments, leaving providers responsible for paying the tax to the state and negotiating reimbursement through their MCO contracts.

Current MCO contract requirements cite the following provisions regarding GRT:

- [In capitation rate] The contractor’s capitation rate will be established by HCA. HCA’s actuaries will develop components of the capitation rates, to include the medical services components, premium tax, gross receipts tax for provider payments, and the administrative expense portion of the capitation rates.
- [In provider agreements] Address how GRT will be accounted for when reimbursing providers (i.e., whether the GRT will be built into the negotiated contract rate or paid separately and identify the amount of GRT that will be paid on Medicaid claims);
- [In provider payments] The contractor shall negotiate with providers on how the GRT will be accounted for when reimbursing providers and consider GRT when establishing reimbursement rates (i.e. whether the GRT will be built into the negotiated contract rate or paid separately and identify the amount of GRT that will be paid on Medicaid claims)
- [In special reimbursement] The contractor shall be reimbursed for paid claims at either the established Medicaid fee schedule or the contracted rate in the provider agreement, whichever is greater, as of the date of service, plus GRT as applicable. HCA shall reimburse the contractor with state funds for state-funded services and state funds and federal match for federally funded services via invoicing methodology
- Unless otherwise noted in ... this agreement, the contractor shall reimburse all providers at or above the state plan approved fee schedule for all services reimbursed at a fee-for-service payment methodology exclusive of applicable taxes and negotiated amounts.

HCA oversees MCO compliance with these contractual provisions, including through provider rate audits to ensure conformance with the contract. The bill aims to standardize GRT reimbursement by ensuring providers are directly compensated, regardless of contract terms. Currently, some MCOs use average GRT rates to reimburse providers instead of paying the actual GRT owed. This approach means that, if a provider’s actual GRT rate is higher than the average rate used by the MCO, the provider is not fully reimbursed for the tax it is required to pay, leading to out-of-pocket expenses. Conversely, if the actual rate is lower, the provider may receive more than it owes. This bill addresses the issue by requiring MCOs to reimburse providers for the exact amount of GRT they are obligated to pay, ensuring full and accurate compensation and eliminating the financial discrepancies caused by using average rates.

HCA does not believe the bill would create a health care-related tax for federal Medicaid law purposes. To be considered a health care-related tax (commonly referred to as “provider tax”) under federal Medicaid law, the tax must:

- 1) Levy at least 85 percent of the tax burden on health care providers, or
- 2) Treat entities providing or paying for health care items or services differently than other individuals or entities.

Enactment of this bill would not result in 85 percent of the GRT tax burden being placed on providers. Also, health care providers or payers for health care services would not be treated differently. The GRT tax structure, including rate methodologies and definitions would apply the same to providers as others. Deductions, exemptions, and credits are a common feature of New Mexico's GRT system that span across a wide array of businesses and industries. Therefore, differential treatment of providers is not indicated for purposes of a federal health care-related tax analysis. HCA does not believe the passage of SB249 would impact this analysis as that bill deals with the reimbursement of Medicaid provider GRT by MCOs and does not further limit or expand the payment of GRT by providers. Under current federal requirements, even if the bill creates a health care-related tax, the arrangement is eligible for drawing down federal match as it is broad-based and does not violate the "hold harmless" rule.

ADMINISTRATIVE IMPLICATIONS

The Health Care Authority notes the Medicaid program currently factors in GRT when calculating capitation rates for MCOs and pays providers GRT on fee-for-service (FFS) claims. However, in accordance with federal regulations, HCA is not legally allowed to be involved in provider reimbursement negotiations between MCOs and Medicaid providers who are subject to collecting and remitting the GRT to the state.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to House Bill 344 and Senate Bill 295, which include similar provisions for Medicaid GRT reimbursement.

JF/hj