

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 70

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO HEALTH CARE; ENACTING THE BEHAVIORAL HEALTH
MEDICAID WAIVER ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Behavioral Health Medicaid Waiver Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Behavioral Health Medicaid Waiver Act:

A. "behavioral health condition" means serious
mental illness, serious emotional disturbance, substance use
disorder or brain injury whenever that condition:

(1) substantially impairs a person's ability
to manage the person's own affairs; or

(2) makes a person eligible to receive
disability benefits from New Mexico or the federal government;

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1 B. "brain injury" means an injury to the brain of
2 traumatic or acquired origin, including an open or closed head
3 injury, caused by:

- 4 (1) an insult to the brain from an outside
5 physical force;
- 6 (2) anoxia;
- 7 (3) an electrical shock;
- 8 (4) shaken baby syndrome;
- 9 (5) a toxic or chemical substance;
- 10 (6) a near-drowning;
- 11 (7) an infection;
- 12 (8) a tumor;
- 13 (9) a vascular lesion; or

14 (10) an event that results in either temporary
15 or permanent, partial or total impairment in one or more areas
16 of the brain that results in total or partial functional
17 disability, including:

- 18 (a) cognition;
- 19 (b) language;
- 20 (c) memory;
- 21 (d) attention;
- 22 (e) reasoning;
- 23 (f) abstract thinking;
- 24 (g) judgment;
- 25 (h) problem solving;

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1 (i) sensory perception and motor
2 abilities;

3 (j) psychosocial behavior;

4 (k) physical functions;

5 (l) information processing; or

6 (m) speech;

7 C. "eligible person" means a person that the health
8 care authority has determined is eligible to receive support
9 and services to treat the person's behavioral health condition;

10 D. "serious emotional disturbance" means a
11 diagnosable mental, behavioral or emotional disorder in a
12 person under the age of eighteen years and of sufficient
13 duration to meet diagnostic criteria that results in functional
14 impairment that substantially interferes with or limits the
15 person's role or functioning in family, school or community
16 activities;

17 E. "serious mental illness" means a diagnosable
18 mental, behavioral or emotional disorder in a person eighteen
19 years of age or older of sufficient duration to meet diagnostic
20 criteria that results in functional impairment that
21 substantially interferes with or limits one or more major life
22 activities; and

23 F. "substance use disorder" means dependence on or
24 misuse of alcohol, illicit drugs or psychotherapeutics,
25 including prescription pain relievers, sedatives, tranquilizers

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1 or stimulants, within the past twelve months based on
2 assessments of individual diagnostic criteria from the current
3 edition of the *Diagnostic and Statistical Manual of Mental*
4 *Disorders* published by the American psychiatric association.

5 SECTION 3. [NEW MATERIAL] HEALTH CARE AUTHORITY DUTIES--
6 PERSONS WITH BEHAVIORAL HEALTH CONDITIONS.--

7 A. Subject to approval by the federal centers for
8 medicare and medicaid services and the availability of
9 appropriations provided expressly for this purpose, the health
10 care authority shall:

11 (1) acquire, provide or coordinate support and
12 services for persons with behavioral health conditions through
13 a medicaid waiver program that provides home- and community-
14 based services and supports;

15 (2) enter into contracts and provider
16 agreements with agencies and persons capable of providing
17 support and services to eligible persons with behavioral health
18 conditions; and

19 (3) establish advisory councils and task
20 forces as necessary to guide the development of and to review
21 the operation of support and services to eligible persons with
22 behavioral health conditions.

23 B. Support and services shall be provided to
24 eligible persons with behavioral health conditions based on
25 individual support and service plans developed by an

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1 interdisciplinary team. The team is responsible for
2 collectively evaluating a person's behavioral health needs and
3 developing an individual support and service plan to meet the
4 needs.

5 C. The health care authority shall:

6 (1) solicit the involvement of persons with
7 behavioral health conditions and their family members,
8 providers, parents, professional organizations and other
9 governmental organizations prior to the adoption or revision of
10 rules concerning the provision of support, services, standards
11 or funding systems; provided that participants shall be
12 selected in a manner that reflects geographical, cultural,
13 organizational and professional representation across New
14 Mexico; and

15 (2) develop rules that:

16 (a) to the extent possible, promote
17 uniformity in reimbursement and quality assurance systems
18 regardless of the source of funding;

19 (b) establish the types of supports and
20 services that are provided to eligible persons with behavioral
21 health conditions; and

22 (c) establish eligibility criteria for
23 receiving support and services to treat behavioral health
24 conditions.

25 SECTION 4. [NEW MATERIAL] TEMPORARY PROVISION--DUTIES OF

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1 HEALTH CARE AUTHORITY--MEDICAID WAIVER PROGRAM.--

2 A. Beginning July 2025, the health care authority
3 shall conduct monthly meetings with persons with behavioral
4 health conditions and their family members, providers of
5 behavioral health services, the university of New Mexico,
6 advocates for persons with behavioral health conditions and
7 county and municipal officials who are serving persons with
8 behavioral health conditions to develop an application to be
9 submitted to the federal centers for medicare and medicaid
10 services for authorization to operate a medicaid waiver program
11 for persons with behavioral health conditions. The meetings
12 shall:

13 (1) be used to consider:

14 (a) the scope of services that will be
15 available under the medicaid waiver program; and

16 (b) eligibility requirements for persons
17 who apply to participate in the medicaid waiver program; and

18 (2) continue until the health care authority
19 has submitted an application to the federal centers for
20 medicare and medicaid services for authorization to operate a
21 medicaid waiver program for residents of New Mexico with
22 behavioral health conditions.

23 B. The health care authority may retain a
24 consulting entity to assist the health care authority in the
25 development of an application to the federal centers for

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1 medicare and medicaid services for authorization to operate a
2 medicaid waiver program that provides home- and community-based
3 services and supports for persons with behavioral health
4 conditions.

5 C. No later than July 1, 2026, the health care
6 authority shall submit an application to the federal centers
7 for medicare and medicaid services for authorization to operate
8 a medicaid waiver program that provides home- and community-
9 based services and supports.