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HOUSE BILL 481

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Edward C. Sandoval

AN ACT

RELATING TO HEALTH; AMENDING THE PRIMARY CARE CAPITAL FUNDING
ACT TO CLARIFY PROVISIONS AND FACILITATE THE IMPLEMENTATION
OF THAT ACT.

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

Section 1. Section 24-1C-3 NMSA 1978 (being Laws 1994,
Chapter 62, Section 9) is amended to read:

"24-1C-3. DEFINITIONS.--As used in the Primary Care
Capital Funding Act:

A. "authority" means the New Mexico finance
authority;

B. "capital project" means repair, renovation or
construction of a health facility ~~[or]~~, purchase of land or
acquisition of capital equipment for a health facility;

C. "department" means the department of health;

D. "eligible entity" means a community-based

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1 nonprofit primary care clinic or hospice that operates in a
2 rural or other health care underserved area of the state and
3 that has assets totaling less than ten million dollars
4 (\$10,000,000) and is [~~a~~] exempt from payment of federal
5 income taxes as an organization described in Section
6 501(c)(3) [~~nonprofit corporation for federal income tax~~
7 purposes] of the Internal Revenue Code of 1986;

8 E. "fund" means the primary care capital fund; and

9 F. "primary care" means the first level of basic
10 or general health care for an individual's health needs,
11 including diagnostic and treatment services; "primary care"
12 includes the provision of mental health services if those
13 services are integrated into the eligible entity's service
14 array."

15 Section 2. Section 24-1C-4 NMSA 1978 (being Laws 1994,
16 Chapter 62, Section 10) is amended to read:

17 "24-1C-4. PRIMARY CARE CAPITAL FUND--CREATION--
18 ADMINISTRATION--USE.--

19 A. The "primary care capital fund" is created as a
20 revolving fund in the state treasury. The fund shall consist
21 of appropriations, loan repayments, gifts, grants, donations
22 and interest earned on investment of the fund. Money in the
23 fund shall not revert at the end of a fiscal year.

24 B. The fund shall be administered by the
25 authority. Administrative costs of the authority or
department shall not be paid from the fund. Money in the
fund shall be expended only on warrants drawn by the

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1 secretary of finance and administration pursuant to vouchers
2 signed by the director of the authority or his authorized
3 representative.

4 C. The authority may make a loan to an eligible
5 entity for the costs of a capital project. Not to exceed
6 fifty percent of a loan may be repaid by an eligible entity
7 under the terms of a loan agreement that provides for the
8 eligible entity to enter into a contract for services with
9 the department and have the value of the services provided
10 pursuant to the contract applied as payments on the loan from
11 the authority."

12 Section 3. Section 24-1C-5 NMSA 1978 (being Laws 1994,
13 Chapter 62, Section 11) is amended to read:

14 "24-1C-5. ~~[REGULATIONS]~~ RULES.--

15 A. ~~[Prior to September 15, 1994]~~ The department,
16 in conjunction with the authority, shall adopt ~~[regulations]~~
17 and periodically review and update rules to administer and
18 implement the provisions of the Primary Care Capital Funding
19 Act, including ~~[providing]~~ provisions for:

20 (1) the determination of rural or other
21 health care underserved areas of the state in which eligible
22 entities may receive loans or contracts for services from the
23 fund;

24 (2) procedures and forms for applying for
25 loans or contracts for services for capital projects;

(3) documentation required to be provided by
the applicant to justify the need for the capital project;

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1 (4) documentation required to be provided by
2 the applicant to demonstrate that the applicant is an
3 eligible entity;

4 (5) procedures for review, evaluation and
5 approval of loans and contracts for services, including the
6 programmatic, organizational and financial information
7 necessary to review, evaluate and approve an application;

8 (6) evaluation of the ability and competence
9 of an applicant to provide efficiently and adequately for the
10 completion of a proposed capital project;

11 (7) approval of loan and contract for
12 services applications, including provisions that accord
13 priority attention to areas with the greatest need for
14 primary care services;

15 (8) fair geographic distribution of loans
16 and contracts for services;

17 (9) requirements for repayment of loans,
18 including payment schedules, interest rates, loan terms and
19 other requirements;

20 (10) ensuring the state's interest in any
21 capital project ~~[by the filing of a lien equal to the total~~
22 ~~of the state's financial participation in the project];~~ and

23 (11) ~~[such other]~~ requirements deemed
24 necessary by the department and the authority to ensure that
25 the state receives the primary care services for which the
legislature appropriates money and that ~~[protects]~~ protect
the state's interest in a capital project.

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1 B. [~~Regulations~~] Rules adopted by the department
2 shall become effective when filed in accordance with the
3 provisions of the State Rules Act."

4 Section 4. Section 24-1C-6 NMSA 1978 (being Laws 1994,
5 Chapter 62, Section 12, as amended) is amended to read:

6 "24-1C-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

7 A. The department and the authority shall
8 administer the loan programs and contracts for services
9 [~~established~~] authorized pursuant to the provisions of the
10 Primary Care Capital Funding Act. The department and
11 authority shall:

12 (1) enter into joint powers agreements with
13 each other or other appropriate public agencies to carry out
14 the provisions of that act; and

15 (2) apply to any appropriate federal, state
16 or local governmental agency or private organization for
17 grants and gifts to carry out the provisions of that act or
18 to fund allied community-based health care programs.

19 ~~[B. The department or authority may, instead of a~~
20 ~~loan, contract for services with an eligible entity to~~
21 ~~provide free or reduced fee primary care services for sick~~
22 ~~and medically indigent persons as reasonably adequate legal~~
23 ~~consideration for money from the fund to the entity so it may~~
24 ~~acquire or construct a capital project to provide the~~
25 ~~services.~~

~~E.]~~ B. The department and authority may:

 (1) make and enter into contracts and

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1 agreements necessary to carry out their powers and duties
2 pursuant to the provisions of the Primary Care Capital
3 Funding Act; and

4 (2) do all things necessary or appropriate
5 to carry out the provisions of the Primary Care Capital
6 Funding Act.

7 ~~[D.]~~ C. The authority is responsible for all
8 financial duties of the programs, including:

9 (1) administering the fund;

10 (2) accounting for all money received,
11 controlled or disbursed for capital projects in accordance
12 with the provisions of the Primary Care Capital Funding Act;

13 (3) evaluating and approving loans and
14 contracts for services, including determining financial
15 capacity of an eligible entity;

16 (4) enforcing contract provisions of loans
17 and contracts for services, including the ability to sue to
18 recover money or property owed the state;

19 (5) determining interest rates and other
20 financial aspects of a loan and relevant terms of a contract
21 for services; and

22 (6) performing other duties in accordance
23 with the provisions of the Primary Care Capital Funding Act,
24 regulations promulgated pursuant to that act or joint powers
25 agreements entered into with the department.

~~[E.]~~ D. The department is responsible for ~~[the~~
~~following duties]~~:

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1 (1) defining sick and medically indigent
2 persons for purposes of the Primary Care Capital Funding Act;

3 (2) establishing priorities for loans and
4 contracts for services;

5 (3) determining the appropriateness of the
6 capital project;

7 (4) evaluating the capability of an
8 applicant to provide and maintain primary care or hospice
9 services;

10 (5) selecting recipients of loans and
11 persons with whom to contract for services;

12 (6) determining that capital projects comply
13 with all state and federal licensing and procurement
14 requirements; and

15 (7) contracting with an eligible entity to
16 provide primary care services without charge or at a reduced
17 fee for sick and medically indigent persons as defined by the
18 department.

19 F. The authority may make a loan to an eligible
20 entity to acquire, construct, renovate or otherwise improve
21 a capital project, provided there is a finding:

22 (1) by the department that the project will
23 provide primary care services to sick and medically indigent
24 persons as defined by the department; and

25 (2) by the authority that there is adequate
protection, including ~~[but not limited to]~~ loan guarantees,
real property liens, title insurance, security interests in

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1 or pledges of accounts and other assets, loan covenants and
2 warranties or restrictions on other encumbrances and pledges
3 for the state funds extended for the loan."

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