

AN ACT
RELATING TO MEDICAID; REQUIRING LEGISLATIVE CONSULTATION AND
APPROVAL FOR MEDICAID PROGRAM CHANGES; REQUIRING THAT
INFORMATION AND PERFORMANCE MEASURES BE REPORTED TO THE
LEGISLATURE; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978.

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

Section 1. A new section of the Public Assistance Act
is enacted to read:

"CONSULTATION WITH THE LEGISLATURE-- INFORMATION. --

A. The department shall consult with the
legislative health and human services committee and the
legislative finance committee, prior to submission to the
federal health care financing administration, about matters
involving modifications, amendments or waivers to Title 19
or Title 21 of the federal act, including amendments or
modifications to existing waivers.

B. The department shall provide to the
legislative health and human services committee and the
legislative finance committee copies of all correspondence
between the department and the federal health care financing
administration relating to:

(1) modifications, amendments or waivers to
Title 19 or Title 21 of the federal act, including

modifications to the state health plan;

(2) upper payment limit negotiations; and

(3) issues that may impact the operations, performance or financing of the state programs pursuant to Title 19 or Title 21 of the federal act.

C. The department shall report to the legislature by November 1 of each year the following medicaid information for the prior fiscal year:

(1) utilization by type of service under fee-for-service and managed care;

(2) expenditures by type of service under fee-for-service and managed care;

(3) summary data and analysis of grievances and complaints filed with the department;

(4) summary data and analysis of appeals, complaints and grievances filed with and utilization management decisions made by managed care contractors;

(5) assessment of the adequacy of access by type of service; and

(6) assessment of the state's medicaid managed care plan's performance as compared to the performance of the state's commercial insurers and medicaid nationally as measured by the health plan employer data information set or an equivalent national performance measurement set. "

Section 2. Section 27-1-3 NMSA 1978 (being Laws 1937,

Chapter 18, Section 4, as amended) is amended to read:

"27-1-3. ACTIVITIES OF HUMAN SERVICES DEPARTMENT. -- The department shall be charged with the administration of all the welfare activities of the state as provided in Chapter 27 NMSA 1978, except as otherwise provided for by law. The department shall, except as otherwise provided by law:

A. administer old age assistance, aid to dependent children, assistance to the needy, blind and otherwise handicapped and general relief;

B. administer all aid or services to crippled children, including the extension and improvement of services for crippled children, insofar as practicable under conditions in this state, provide for locating children who are crippled or who are suffering from conditions that lead to crippling, provide corrective and any other services and care and facilities for diagnosis, hospitalization and after-care for children who are crippled or who are suffering from conditions that lead to crippling, and supervise the administration of those services that are not administered directly by the department;

C. administer and supervise all child welfare activities, service to children placed for adoption, service and care of homeless, dependent and neglected children, service and care for children in foster family homes or in institutions because of dependency or delinquency and care and service to any child who because of physical or mental

defect may need such service;

D. formulate detailed plans, make rules and take action deemed necessary or desirable to carry out the provisions of Chapter 27 NMSA 1978 and that is not inconsistent with the provisions of that chapter;

E. cooperate with the federal government in matters of mutual concern pertaining to public welfare and public assistance, including the adoption of such methods of administration as are found by the federal government to be necessary for the efficient operation of the plan for public welfare and assistance;

F. assist other departments, agencies and institutions of local, state and federal governments when so requested, cooperate with such agencies when expedient in performing services in conformity with the purposes of Chapter 27 NMSA 1978 and cooperate with medical, health, nursing and welfare groups, any state agency charged with the administration of laws providing for vocational rehabilitation of physically handicapped persons and organizations within the state;

G. act as the agent of the federal government in welfare matters of mutual concern in conformity with the provisions of Chapter 27 NMSA 1978 and in the administration of any federal funds granted to this state, to aid in furtherance of any such functions of the state government;

H. establish in counties or in districts, which

may include two or more counties, local units of administration to serve as agents of the department;

I. at its discretion, establish local boards of public welfare for such territory as it may see fit and by rule prescribe the duties of the local board;

J. administer such other public welfare functions as may be assumed by the state after the effective date of this section;

K. carry on research and compile statistics relative to the entire public welfare program throughout the state, including all phases of dependency, defectiveness, delinquency and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to public welfare problems;

L. inspect and require reports from all private institutions, boarding homes and agencies providing assistance, care or other direct services to children who are crippled, neglected, delinquent or dependent, the aged, blind, feeble-minded and other dependent persons; and

M. identify health-related programs in the department and in other state departments, including the department of health, the state department of public education and the children, youth and families department, that are eligible for federal matching funds through Title 19 or Title 21 of the federal Social Security Act or similar

programs and establish, maintain and assist those state departments in establishing and maintaining mechanisms necessary to obtain the most favorable federal matching funds appropriate for those programs.

Nothing contained in this section shall be construed to authorize the department to establish or prescribe standards or rules for or otherwise regulate programs or services to children in group homes as defined in Section 9-8-13 NMSA 1978. "

Section 3. Section 27-2-12.6 NMSA 1978 (being Laws 1994, Chapter 62, Section 22) is amended to read:

"27-2-12.6. MEDICAID PAYMENTS--MANAGED CARE. --

A. The department shall provide for a statewide, managed care system to provide cost-efficient, preventive, primary and acute care for medicaid recipients by July 1, 1995.

B. The managed care system shall ensure:

(1) access to medically necessary services, particularly for medicaid recipients with chronic health problems;

(2) to the extent practicable, maintenance of the rural primary care delivery infrastructure;

(3) that the department's approach is consistent with national and state health care reform principles; and

(4) to the maximum extent possible, that

medicaid-eligible individuals are not identified as such except as necessary for billing purposes.

C. The department may exclude nursing homes, intermediate care facilities for the mentally retarded, medicaid in-home and community-based waiver services and residential and community-based mental health services for children with serious emotional disorders, mental and behavioral health services and other services from the provisions of this section.

D. The department shall establish procedures to ensure the availability to the legislature by January 1 of each year the negotiated proposed rates payable under this section for the subsequent fiscal year.

E. The department shall not enter into agreements pursuant to this section without consultation and approval by the legislature for rates that exceed the upper payment limit first approved by the federal health care financing administration or increases in rates that exceed the projected medical inflation rate for the period of the contract.

F. All contracts entered into by the department pursuant to this section shall require compliance with federal law and state law to the extent not explicitly prohibited by federal law, including:

- (1) the Patient Protection Act;
- (2) the clean claim timeliness provisions

pursuant to Section 59A-2-9.2 NMSA 1978;

(3) Title 19 and Title 21 of the federal act;

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(4) the federal Health Insurance Portability and Accountability Act of 1996; and

(5) other laws providing for the protection of patient interests and quality of care.

G. The department shall maintain utilization and payment data by type of service for services provided pursuant to this section.

H. Contracts pursuant to this section shall include provisions for development and implementation of standardized and uniform forms and administrative procedures for direct service providers.

I. The department shall include performance provisions in contracts pursuant to this section, including:

(1) applicable performance measurements consistent with the department's performance measurements pursuant to the Accountability in Government Act or other applicable laws or rules; and

(2) by July 1, 2004, incentives for attaining contract performance standards. "_____