

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 60**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Max Coll**

**AN ACT**

**RELATING TO HEALTH CARE; IMPOSING CERTAIN REQUIREMENTS ON  
MEDICAID PROVIDERS TO ENSURE FAIR AND NONDISCRIMINATORY  
PRACTICES IN RELATIONSHIPS WITH HEALTH CARE PROFESSIONALS IN  
THE MEDICAID PROGRAM; AMENDING AND ENACTING SECTIONS OF THE  
NMSA 1978; DECLARING AN EMERGENCY.**

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

**Section 1. Section 27-2-12.3 NMSA 1978 (being Laws 1987,  
Chapter 269, Section 1, as amended) is amended to read:**

**"27-2-12.3. MEDICAID REIMBURSEMENT-- EQUAL PAY FOR EQUAL  
PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND  
PSYCHOLOGISTS' SERVICES. --**

**A. The human services department shall establish  
[a rate] rates for the reimbursement of physicians, dentists,  
optometrists, podiatrists and psychologists for services**

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 rendered to medicaid patients [~~that provides~~] that are not in  
2 the managed care system. The rates shall provide equal  
3 reimbursement for the same or similar services rendered  
4 without respect to the date on which [~~such~~] the physician,  
5 dentist, optometrist, podiatrist or psychologist entered into  
6 practice in New Mexico, the date on which the physician,  
7 dentist, optometrist, podiatrist or psychologist entered into  
8 an agreement or contract to provide [~~such~~] services or the  
9 location in which [~~such~~] services are to be provided in the  
10 state [~~provided, however, that the requirements of this~~  
11 ~~section shall not apply when the human services department~~  
12 ~~contracts with entities pursuant to Section 27-2-12.6 NMSA~~  
13 ~~1978 to negotiate a rate for the reimbursement for services~~  
14 ~~rendered to medicaid patients in the medicaid managed care~~  
15 ~~system]~~.

16 B. For services rendered to medicaid patients in  
17 the medicaid managed care system, the provisions of Section  
18 27-11-6 NMSA 1978 shall apply."

19 Section 2. Section 27-11-1 NMSA 1978 (being Laws 1998,  
20 Chapter 30, Section 1) is amended to read:

21 "27-11-1. SHORT TITLE. -- [~~This act~~] Chapter 27, Article  
22 11 NMSA 1978 may be cited as the "Medicaid Provider Act". "

23 Section 3. Section 27-11-2 NMSA 1978 (being Laws 1998,  
24 Chapter 30, Section 2) is amended to read:

25 "27-11-2. DEFINITIONS. -- As used in the Medicaid Provider

underscored material = new  
[bracketed material] = delete

1 Act:

2 A. "department" means the human services  
3 department;

4 B. "health care professional" means a physician or  
5 other health care practitioner who is licensed, certified or  
6 otherwise authorized by the state to provide health care  
7 services consistent with state law;

8 [~~B.~~] C. "managed care organization" means a person  
9 eligible to enter into risk-based prepaid capitation  
10 agreements with the department to provide health care and  
11 related services;

12 [~~C.~~] D. "medicaid" means the medical assistance  
13 program established pursuant to Title 19 of the federal Social  
14 Security Act and regulations issued pursuant to that act;

15 [~~D.~~] E. "medicaid provider" means a person,  
16 including a managed care organization, operating under  
17 contract with the department to provide medicaid-related  
18 services to recipients;

19 [~~E.~~] F. "person" means an individual or other  
20 legal entity;

21 [~~F.~~] G. "recipient" means a person whom the  
22 department has determined to be eligible to receive  
23 medicaid-related services;

24 [~~G.~~] H. "secretary" means the secretary of human  
25 services; and

underscored material = new  
[bracketed material] = delete

1                    ~~[H-]~~ I. "subcontractor" means a person who  
2 contracts with a medicaid provider to provide medicaid-related  
3 services to recipients. "

4                    Section 4. A new section of the Medicaid Provider Act,  
5 Section 27-11-6 NMSA 1978, is enacted to read:

6                    "27-11-6. [NEW MATERIAL] FAIR AND NONDISCRIMINATORY  
7 PRACTICES REQUIRED OF MEDICAID PROVIDERS--REMEDIES FOR  
8 VIOLATIONS. --

9                    A. In its provision of services to medicaid  
10 patients, a medicaid provider:

11                    (1) shall not refuse to renew a contract with  
12 a health care professional if requested by the health care  
13 professional unless the medicaid provider can demonstrate by  
14 clear and convincing evidence that good cause exists for the  
15 refusal;

16                    (2) shall establish and implement rates of  
17 reimbursement for services rendered to medicaid patients that  
18 provide equal reimbursement for the same or similar services  
19 rendered without respect to the date on which the health care  
20 professional entered into practice in New Mexico, the date on  
21 which the health care professional entered into a contract to  
22 provide the services or the location in which the services are  
23 to be provided in the state; and

24                    (3) shall not discriminate against a contract  
25 health care professional based on the race, ethnicity, gender,

underscored material = new  
[bracketed material] = delete

1 religious beliefs or sexual orientation of the health care  
2 professional.

3 B. A health care professional that is damaged by a  
4 medicaid provider's failure to comply with provisions of  
5 Paragraph (1), (2) or (3) of Subsection A of this section has  
6 a civil right of action against the provider for damages, and  
7 if the health care professional prevails in a suit brought  
8 pursuant to this subsection shall be awarded:

9 (1) compensatory damages;

10 (2) punitive damages in an amount at least  
11 three times the award of compensatory damages if the medicaid  
12 provider's failure to comply was intentional;

13 (3) a reasonable attorney fee; and

14 (4) costs and expenses incurred in  
15 prosecuting the action. "

16 Section 5. EMERGENCY.--It is necessary for the public  
17 peace, health and safety that this act take effect  
18 immediately.