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SENATE MEMORIAL 29

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Gerald Ortiz y Pino

A MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CREATE AN INTERIM BEHAVIORAL HEALTH SERVICES REVIEW WORKING GROUP TO STUDY THE STATE'S PUBLICLY FUNDED BEHAVIORAL HEALTH SERVICES SYSTEM AND MAKE RECOMMENDATIONS FOR STRUCTURAL CHANGES.

WHEREAS, since the late 1990s, recipients of publicly funded behavioral health services in New Mexico have experienced enormous upheavals and disruptions in service due to fluxes in policy directed by state and federal policymakers; and

WHEREAS, in 1997, the state's medicaid physical and behavioral health services systems moved from a fee-for-service reimbursement basis to a managed care model; and

WHEREAS, shortly after the transition to managed care, medicaid behavioral health services recipients and providers

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1 experienced provider layoffs, cutbacks and closure of  
2 facilities, especially inpatient and residential treatment  
3 facilities for children; and

4 WHEREAS, after the transition to medicaid managed care, a  
5 legislative finance committee audit, the Bazelon center for  
6 mental health law, behavioral health providers and behavioral  
7 health advocates characterized the new managed care behavioral  
8 health system as providing inadequate care, improperly denying  
9 care, underpaying provider claims and spending fifty-one cents  
10 (\$.51) of every behavioral health dollar on administration,  
11 compared to thirty-three cents (\$.33) per dollar spent on  
12 administration under the fee-for-service system; and

13 WHEREAS, mental health advocates lamented the flight of  
14 behavioral health professionals under the 1990s managed care  
15 system; and

16 WHEREAS, in 2004, the legislature and the governor passed  
17 legislation to create the interagency behavioral health  
18 purchasing collaborative, to pool state agency behavioral  
19 health dollars to contract with a single statewide managed care  
20 entity for statewide medicaid and other publicly funded  
21 behavioral health services; and

22 WHEREAS, under the statewide behavioral health services  
23 entity contract, state medicaid behavioral health services were  
24 "carved out" from the medicaid system that had previously  
25 provided for both physical and behavioral health services; and

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1           WHEREAS, after the 2005 selection of ValueOptions New  
2 Mexico as the statewide behavioral health services entity in  
3 New Mexico, disruptions in service and nonpayment of claims  
4 continued to plague the state's publicly funded behavioral  
5 health services system; and

6           WHEREAS, in 2012, the interagency behavioral health  
7 purchasing collaborative selected OptumHealth New Mexico to  
8 replace ValueOptions New Mexico as the single statewide entity,  
9 yet the behavioral health system's woes only worsened, with  
10 nonpayment of provider claims giving rise to a corrective  
11 action plan and sanctions against OptumHealth New Mexico; and

12           WHEREAS, analysis by the legislative finance committee and  
13 others showed that under the statewide entity, state  
14 expenditures for behavioral health services have increased  
15 while the number of clients served has decreased, and a lack of  
16 transparency and inefficient administrative practices burden  
17 the system; and

18           WHEREAS, in 2013 the human services department received  
19 federal approval of a medicaid waiver to create a new program,  
20 Centennial Care, that as of January 1, 2014 is reintegrating  
21 behavioral health and physical health services under the  
22 management of four managed care companies, some of which have  
23 no experience in providing behavioral health services; and

24           WHEREAS, beginning in June 2013, the human services  
25 department made credible allegations of fraud pursuant to

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1 federal law against a majority of the state's medicaid  
2 behavioral health provider agencies and placed a hold on these  
3 provider agencies' claim reimbursements pending further  
4 investigation by the state's attorney general; and

5 WHEREAS, while the credible allegations of fraud remain  
6 unsubstantiated, the provider agencies against whom credible  
7 allegations of fraud have been made have gone out of business  
8 and have been replaced by five Arizona provider agencies; and

9 WHEREAS, legislative committee testimony by many  
10 behavioral health services recipients and providers and data  
11 that show an increase in behavioral health crisis and access  
12 hotline calls suggest that there is a crisis in the state's  
13 behavioral health system that exacerbates decades of disruption  
14 in access to the behavioral health care essential to the well-  
15 being and safety of many New Mexicans;

16 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE  
17 OF NEW MEXICO that the New Mexico legislative council be  
18 requested to appoint a multidisciplinary behavioral health  
19 services review working group to conduct a thorough review of  
20 the state's publicly funded behavioral health services system  
21 to determine the best means for efficiently delivering  
22 excellent behavioral health services to recipients of medicaid  
23 and other publicly funded programs; and

24 BE IT FURTHER RESOLVED that the New Mexico legislative  
25 council be requested to charge the behavioral health services

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1 review working group to include in its review best practices in  
2 behavioral health services delivery, administration and finance  
3 learned from stakeholder recommendations, other states and  
4 industry practices; and

5 BE IT FURTHER RESOLVED that the New Mexico legislative  
6 council require the behavioral health services review working  
7 group to conduct meetings that are coordinated with interim  
8 committee meetings wherever possible, that are open to the  
9 public and that provide for public testimony; and

10 BE IT FURTHER RESOLVED that the New Mexico legislative  
11 council be requested to charge the behavioral health services  
12 review working group with making recommendations for any  
13 changes to state law that will facilitate implementation of  
14 best practices in behavioral health services delivery,  
15 administration and finance and result in a behavioral health  
16 services system that meets the needs of behavioral health  
17 services recipients, their families and the state; and

18 BE IT FURTHER RESOLVED that the New Mexico legislative  
19 council appoint members to the behavioral health services  
20 review working group as follows:

21 A. two members appointed from the majority party in  
22 the house of representatives, one of whom is the interim 2014  
23 chair of the legislative health and human services committee;

24 B. two members appointed from the majority party in  
25 the senate, one of whom is the interim 2014 vice chair of the

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1 legislative health and human services committee;

2 C. one member who is appointed from the minority  
3 party in the house of representatives;

4 D. one member who is appointed from the minority  
5 party in the senate;

6 E. one member who is a representative from the  
7 behavioral health services division of the human services  
8 department;

9 F. three members who are licensed providers of  
10 publicly funded behavioral health services;

11 G. three members who are recipients of publicly  
12 funded behavioral health services or who are parents or legal  
13 representatives of recipients of publicly funded behavioral  
14 health services;

15 H. four members who are representatives of each of  
16 the four managed care organizations providing services through  
17 the state medicaid program;

18 I. a member who is a representative of the office  
19 of superintendent of insurance;

20 J. one member who is an expert in health law; and

21 K. one member who is an expert in health care  
22 finance; and

23 BE IT FURTHER RESOLVED that the New Mexico legislative  
24 council charge the behavioral health services review working  
25 group to report its findings by November 1, 2014 to the

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1 governor, to the legislative health and human services  
2 committee and to the legislative finance committee; and

3 BE IT FURTHER RESOLVED that copies of this memorial be  
4 transmitted to the governor, the president pro tempore of the  
5 senate, the speaker of the house of representatives, the chair  
6 of the legislative health and human services committee and the  
7 chair of the legislative finance committee.

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