

Underscored material = new
[bracketed material] = delete

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 433

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

DAVID M. PARSONS

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING PROVISIONS OF THE PUBLIC ASSISTANCE ACT AND OTHER PROVISIONS OF LAW RELATED TO PUBLIC ASSISTANCE TO ACCOMPLISH WELFARE REFORM; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 27-2-1 NMSA 1978 (being Laws 1973, Chapter 376, Section 1) is amended to read:

"27-2-1. SHORT TITLE. -- Sections [~~1 through 20 of this act and Sections 13-1-9, 13-1-10, 13-1-12, 13-1-13, 13-1-17, 13-1-18, 13-1-18.1, 13-1-19, 13-1-20, 13-1-20.1, 13-1-21, 3-1-22, 13-1-27, 13-1-27.2, 13-1-27.3, 13-1-27.4, 13-1-28, 13-1-28.6, 13-1-29, 13-1-30, 13-1-34, 13-1-35, 13-1-37, 13-1-39, 3-1-40, 13-1-41 and 13-1-42 NMSA 1953]~~ 27-2-1 through 27-2-36

Underscored material = new
[bracketed material] = delete

1 NMSA 1978 may be cited as the "Public Assistance Act". "

2 Section 2. Section 27-2-2 NMSA 1978 (being Laws 1973,
3 Chapter 376, Section 2, as amended) is repealed and a new
4 Section 27-2-2 NMSA 1978 is enacted to read:

5 "27-2-2. [NEW MATERIAL] DEFINITIONS. --

6 A. As used in the Public Assistance Act:

7 (1) "department" means the human services
8 department;

9 (2) "federal act" means the applicable federal
10 law authorizing or regulating, or both, a federally funded state
11 administered public welfare program;

12 (3) "public welfare" or "public assistance"
13 means aid, assistance or relief granted to or on behalf of an
14 eligible individual pursuant to the provisions of the Public
15 Assistance Act or regulations adopted pursuant to that act;

16 (4) "recipient" means an individual who
17 receives public assistance or services pursuant to the Public
18 Assistance Act; and

19 (5) "secretary" means the secretary of human
20 services.

21 B. As used in Chapter 27 NMSA 1978:

22 (1) "AFDC", "TANF", "aid to families with
23 dependent children" or "temporary assistance to needy families"
24 means the state and federal welfare programs of aid to families
25 with dependent children or temporary assistance to needy

Underscored material = new
[bracketed material] = delete

1 families and similar programs that supersede or replace those
2 programs; and

3 (2) "medicaid" or "medigrant" means the state
4 and federal medical assistance programs authorized pursuant to
5 the federal act and known by those names and similar programs
6 that supersede or replace those programs."

7 Section 3. Section 27-2-4 NMSA 1978 (being Laws 1973,
8 Chapter 376, Section 4, as amended) is amended to read:

9 "27-2-4. GENERAL ELIGIBILITY REQUIREMENTS. -- Consistent
10 with the federal act, a person is eligible for public assistance
11 grants under the Public Assistance Act if:

12 A. pursuant to Section [~~13-17-3 NMSA 1953~~] 27-2-3
13 NMSA 1978, the total amount of his nonexempt income is less than
14 the applicable standard of need; [~~and~~]

15 B. his nonexempt specific and total resources are
16 less than the level of maximum permissible resources established
17 by the [~~board; and~~] department;

18 C. he meets all qualifications for one of the public
19 assistance programs authorized by the Public Assistance Act; and

20 [~~D. within two years immediately prior to the filing~~
21 ~~of an application for assistance, he has not made an assignment~~
22 ~~or transfer of real property unless he has received a reasonable~~
23 ~~return for the real property or, if he has not received such~~
24 ~~reasonable return, he is willing to attempt to obtain such~~
25 ~~return and, if such attempt proves futile, he is willing to~~

Underscored material = new
[bracketed material] = delete

1 ~~attempt to regain title to the property; and~~

2 ~~E.]~~ D. he is not an inmate of any public nonmedical
3 institution at the time of receiving assistance [~~and~~

4 ~~F. he is a resident of New Mexico]. "~~

5 Section 4. Section 27-2-5 NMSA 1978 (being Laws 1973,
6 Chapter 376, Section 5, as amended) is amended to read:

7 "27-2-5. AMOUNT AND FORM OF PUBLIC ASSISTANCE GRANT. -- [~~A.]~~

8 The amount and form of an eligible person's [~~maximum grant of~~]
9 public assistance is determined [~~by deducting the total amount~~
10 ~~of his nonexempt income from the applicable standard of need.~~

11 ~~However, if the amount of federal and state funds available for~~
12 ~~public assistance is insufficient to provide the grants for all~~
13 ~~eligible persons, the amount of grants to eligible persons may~~
14 ~~be reduced as necessary.~~

15 ~~B. The secretary of human services may set~~
16 ~~individual and family maximum and minimum grant levels for each~~
17 ~~program] pursuant to regulations adopted by the department.~~
18 These regulations shall include provisions for public assistance
19 programs that:

20 A. are designed to operate within legislative
21 appropriations;

22 B. include provisions for cash benefits, payments to
23 vendors on behalf of recipients and other non-cash benefits;

24 C. authorize the secretary to establish individual
25 and family maximum public assistance grant levels for each

Underscored material = new
[bracketed material] = delete

1 public assistance program.

2 D. include a prohibition of any type of maximum
3 grant predicated upon size or increase in size of the family to
4 which assistance is granted; and

5 E. are not more restrictive than permitted by
6 federal law."

7 Section 5. Section 27-2-6.1 NMSA 1978 (being Laws 1978,
8 Chapter 30, Section 1) is amended to read:

9 "27-2-6.1. SUPPLEMENTAL POSTNATAL ASSISTANCE. --The [~~health~~
10 ~~and social services~~] department shall establish a program of
11 supplemental postnatal assistance for those mentally retarded
12 persons who during pregnancy received [~~aid~~] temporary assistance
13 to needy families [~~with dependent children~~] but whose [~~aid~~]
14 assistance was [~~revoked~~] terminated upon relinquishment of the
15 newly born child for adoption. The supplemental postnatal
16 assistance provided for in this section shall be [~~at the same~~
17 ~~rate as aid to families with dependent children~~] in the same
18 form and amount as temporary assistance to needy families, but
19 [~~such~~] supplemental postnatal assistance shall not [~~exceed a~~
20 ~~period of~~] continue for more than sixty days. The [~~health and~~
21 ~~social services~~] department shall [~~promulgate~~] adopt rules and
22 regulations [~~in order~~] to carry out the provisions of this
23 section."

24 Section 6. Section 27-2-6.2 NMSA 1978 (being Laws 1988,
25 Chapter 122, Section 1) is amended to read:

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

1 "27-2-6.2. [PUBLIC] TEMPORARY ASSISTANCE TO NEEDY
2 FAMILIES- -EMPLOYMENT [AND], TRAINING AND COMMUNITY SERVICE
3 ELIGIBILITY REQUIREMENTS- -STATUS OF RECIPIENTS. - -

4 ~~[A. In the administration of all food stamp~~
5 ~~employment and training programs, community work experience~~
6 ~~programs, work incentive demonstration programs for recipients~~
7 ~~of aid to families with dependent children and all other work~~
8 ~~registration, work incentive or employment and training programs~~
9 ~~established or conducted by the human services department,~~
10 ~~participation of recipients shall be voluntary except as~~
11 ~~prohibited by federal law or when mandatory participation is a~~
12 ~~requirement in order to secure federal funding for services~~
13 ~~provided.~~

14 ~~B. Any waiver requests developed and submitted to~~
15 ~~the federal government by the human services department for food~~
16 ~~stamp employment and training programs, community work~~
17 ~~experience programs, work incentive demonstration programs for~~
18 ~~recipients of aid to families with dependent children and all~~
19 ~~other work registration, work incentive or employment, education~~
20 ~~and training programs shall include a voluntary program and may~~
21 ~~also include a mandatory alternative.~~

22 ~~C. The human services department shall promulgate~~
23 ~~regulations which shall be published and made available for~~
24 ~~public notice and comment which detail the criteria for~~
25 ~~mandatory participation and exemptions in accordance with~~

Underscored material = new
[bracketed material] = delete

1 ~~federal law and regulations for persons in work, education,~~
2 ~~training, job search and work experience programs administered~~
3 ~~by the human services department prior to their implementation.~~

4 ~~D. The human services department shall not place~~
5 ~~persons in any community work experience or similar program~~
6 ~~unless:~~

7 ~~(1) appropriate standards for health, safety~~
8 ~~and other conditions applicable to the performance of work are~~
9 ~~met;~~

10 ~~(2) the program does not result in displacement of~~
11 ~~persons currently employed; and~~

12 ~~(3) provision is made for transportation, day~~
13 ~~care and other costs necessary and directly related to~~
14 ~~participation in the program]~~

15 A. Temporary assistance to needy families is
16 provided pursuant to regulations adopted by the department.

17 These regulations shall include provisions:

18 (1) authorizing the department to require as a
19 condition of eligibility for a recipient the participation by a
20 recipient in programs of employment, educational or training
21 services or community services; and

22 (2) that are no more restrictive than the
23 federal law permits.

24 B. A recipient who is employed, participating in a
25 training or educational program or providing community services

Underscored material = new
[bracketed material] = delete

1 as a condition of eligibility for receipt of temporary
2 assistance to needy families is not an employee of the
3 department for any purposes, except as may be otherwise provided
4 in the Unemployment Compensation Law, and is not entitled to any
5 employee benefits. Acts of the recipient while employed or
6 providing community services are not attributable to the
7 department, and the department is not liable for damages caused
8 by those acts."

9 Section 7. Section 27-2-7 NMSA 1978 (being Laws 1973,
10 Chapter 376, Section 10, as amended) is amended to read:

11 "27-2-7. GENERAL ASSISTANCE PROGRAM - QUALIFICATIONS AND
12 PAYMENTS. -- [A-] Subject to the availability of state funds,
13 public assistance shall be provided under a general assistance
14 program to [~~or on behalf of~~] eligible persons who:

15 [(1)] A. are under eighteen years of age and meet
16 all eligibility conditions for [~~aid~~] temporary assistance to
17 needy families [~~with dependent children~~] except the relationship
18 to the person with whom they are living; [~~or~~

19 (2)] B. are over the age of eighteen and are
20 temporarily disabled according to regulations of the [~~board~~]
21 department that incorporate a definition of "disabled" no more
22 restrictive than the definition of that term in the federal
23 Social Security Act and regulations adopted under it and who are
24 not receiving [~~aid~~] temporary assistance to needy families [~~with~~
25 ~~dependent children~~]; or

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

1 ~~[(3)]~~ C. meet the qualifications under such other
2 regulations for the general assistance program as the ~~[board]~~
3 department shall establish. ~~[from time to time.]~~

4 ~~B. General assistance program payments may be made~~
5 ~~directly to the recipient or to the vendor of goods or services~~
6 ~~provided to the recipient. The board may by regulation limit~~
7 ~~the grants that are made to general assistance recipients.~~

8 ~~C. Whenever the board makes an adjustment in the~~
9 ~~standard of need for the aid to families with dependent children~~
10 ~~program pursuant to Section 13-17-3 NMSA 1953, it shall make a~~
11 ~~commensurate adjustment in the standard of need for the general~~
12 ~~assistance program.]"~~

13 Section 8. Section 27-2-9 NMSA 1978 (being Laws 1973,
14 Chapter 376, Section 13) is amended to read:

15 "27-2-9. PAYMENT FOR HOSPITAL CARE. --

16 A. Consistent with the federal act, the department
17 shall provide necessary hospital care for recipients of public
18 assistance other than those eligible under the general
19 assistance program authorized by Section ~~[10 of the Public~~
20 ~~Assistance Act]~~ 27-2-7 NMSA 1978. ~~[The rate of]~~ Payment for
21 inpatient hospital services shall be ~~[based either on the~~
22 ~~reasonable cost or the customary cost of such services,~~
23 ~~whichever is less. In determining reasonable cost under this~~
24 ~~section, the board shall adopt regulations establishing a~~
25 ~~formula]:~~

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

1 (1) at the rate established by regulations
2 adopted by the department that are consistent with the federal
3 act [~~The department shall apply that formula to determine the~~
4 ~~amount to which each hospital is entitled as reimbursement for~~
5 ~~providing in-patient hospital services~~]; or

6 (2) if the hospital care is provided pursuant
7 to a managed care contract, at a rate or in an amount determined
8 as provided in that contract.

9 B. To receive reimbursement for providing in-patient
10 hospital services, a hospital shall file annually with the
11 department [~~such~~] information as required by the department [~~may~~
12 ~~reasonably require to determine reasonable costs or the~~
13 ~~hospital's customary cost of in-patient hospital services~~]
14 pursuant to its regulations.

15 C. [~~Any~~] A hospital entitled to reimbursement for
16 in-patient hospital services [~~shall be~~] is entitled to a
17 hearing, pursuant to regulations of the [~~board consistent with~~
18 ~~applicable state law~~] department if the hospital disagrees with
19 the department's determination of the reimbursement the hospital
20 is to receive. "

21 Section 9. Section 27-2-12.3 NMSA 1978 (being Laws 1987,
22 Chapter 269, Section 1) is amended to read:

23 "27-2-12.3. MEDICAID OR MEDIGRANT REIMBURSEMENT [~~EQUAL PAY~~
24 ~~FOR EQUAL PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS'~~
25 ~~AND PSYCHOLOGISTS' SERVICES~~]. -- The [~~human services~~] department

Underscored material = new
[bracketed material] = delete

1 shall establish [~~a rate~~] rates by regulation for the
2 reimbursement of [~~physicians, dentists, optometrists,~~
3 ~~podiatrists and psychologists for~~] providers of services
4 rendered to medicaid or medigant patients [~~that provides equal~~
5 ~~reimbursement for the same or similar services rendered without~~
6 ~~respect to the date on which such physician, dentist,~~
7 ~~optometrist, podiatrist or psychologist entered into practice in~~
8 ~~New Mexico, the date on which the physician, dentist,~~
9 ~~optometrist, podiatrist or psychologist entered into an~~
10 ~~agreement or contract to provide such services or the location~~
11 ~~in which such services are to be provided in the state]. "~~

12 Section 10. Section 27-2-12.4 NMSA 1978 (being Laws 1987,
13 Chapter 214, Section 1) is amended to read:

14 "27-2-12.4. LONG-TERM CARE FACILITIES-- [~~NONCOMPLIANCE~~
15 ~~WITH]~~ STANDARDS AND CONDITIONS. -- [~~SANCTIONS.---~~

16 A. ~~In addition to any other actions required or~~
17 ~~permitted by federal law or regulation, the human services~~
18 ~~department shall impose a hold on state medicaid payments to a~~
19 ~~long term care facility thirty days after the health and~~
20 ~~environment department notifies the human services department in~~
21 ~~writing pursuant to an on-site visit that the long term care~~
22 ~~facility is not in substantial compliance with the standards or~~
23 ~~conditions of participation promulgated by the federal~~
24 ~~department of health and human services pursuant to which the~~
25 ~~facility is a party to a medicaid provider agreement, unless the~~

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

1 ~~substantial noncompliance has been corrected within that thirty-~~
2 ~~day period or the facility's medicaid provider agreement is~~
3 ~~terminated or not renewed based in whole or in part on the~~
4 ~~noncompliance. The written notice shall cite the specific~~
5 ~~deficiencies that constitute noncompliance.~~

6 ~~B. The human services department shall remove the~~
7 ~~payment hold imposed under Subsection A of this section when the~~
8 ~~health and environment department, pursuant to an on-site visit,~~
9 ~~certifies in writing to the human services department that the~~
10 ~~long-term care facility is in substantial compliance with the~~
11 ~~standards or conditions of participation pursuant to which the~~
12 ~~facility is a party to a medicaid provider agreement.~~

13 ~~C. The human services department shall not reimburse~~
14 ~~any long-term care facility during the payment hold period~~
15 ~~imposed pursuant to Subsection A of this section for any~~
16 ~~medicaid recipient patients who are new admissions and who are~~
17 ~~admitted on or after the day the hold is imposed and prior to~~
18 ~~the day the hold is removed.~~

19 ~~D. If a long-term care facility is certified in~~
20 ~~writing to be in noncompliance pursuant to Subsection A of this~~
21 ~~section for the second time in any twelve-month period, the~~
22 ~~human services department shall cancel or refuse to execute the~~
23 ~~long-term care facility's medicaid provider agreement for a two-~~
24 ~~month period, unless it can be demonstrated that harm to the~~
25 ~~patients would result from this action or that good cause exists~~

Underscored material = new
[bracketed material] = delete

1 ~~to allow the facility to continue to participate in the medicaid~~
2 ~~program. The provisions of this subsection are subject to~~
3 ~~appeal procedures set forth in federal regulations for~~
4 ~~nonrenewal or termination of a medicaid provider agreement.~~

5 ~~E. A long-term care facility shall not charge~~
6 ~~medicaid recipient patients, their families or their responsible~~
7 ~~parties to recoup any payments not received because of a hold on~~
8 ~~medicaid payments imposed pursuant to this section.~~

9 ~~F. This section shall not be construed to affect any~~
10 ~~other provisions for medicaid provider agreement termination,~~
11 ~~nonrenewal, due process and appeal pursuant to federal law or~~
12 ~~regulation.~~

13 ~~G. As used in this section:~~

14 ~~(1) "day" means a twenty-four hour period~~
15 ~~beginning at midnight and ending one second before midnight;~~

16 ~~(2) "long-term care facility" means any~~
17 ~~intermediate care facility or skilled nursing facility which is~~
18 ~~licensed by the health and environment department and which is~~
19 ~~medicaid certified;~~

20 ~~(3) "new admissions" means medicaid recipients~~
21 ~~who have never been in the long-term care facility or, if~~
22 ~~previously admitted, had been discharged or had voluntarily left~~
23 ~~the facility. The term does not include:~~

24 ~~(a) individuals who were in the long-term~~
25 ~~care facility before the effective date of the hold on medicaid~~

Underscored material = new
[bracketed material] = delete

1 ~~payments and became eligible for medicaid after that date; and~~

2 ~~(b) individuals who, after a temporary~~
3 ~~absence from the facility, are readmitted to beds reserved for~~
4 ~~them in accordance with federal regulations; and~~

5 ~~(4) "substantial compliance" means the~~
6 ~~condition of having no cited deficiencies or having only those~~
7 ~~cited deficiencies which:~~

8 ~~(a) are not inconsistent with any federal~~
9 ~~statutory requirement;~~

10 ~~(b) do not interfere with adequate~~
11 ~~patient care;~~

12 ~~(c) do not represent a hazard to the~~
13 ~~patients' health or safety;~~

14 ~~(d) are capable of correction within a~~
15 ~~reasonable period of time; and~~

16 ~~(e) are ones which the long-term care~~
17 ~~facility is making reasonable plans to correct]~~

18 A. Long-term care facilities participating in the
19 federal medicaid or medigrant program shall comply with the
20 licensure, certification and reimbursement requirements
21 established in state and federal law applicable to participation
22 in the program.

23 B. Long-term care facility licensure, certification
24 and participation requirements of the federal medicaid or
25 medigrant program shall be enforced by the human services

Underscored material = new
[bracketed material] = delete

1 department and the department of health.

2 C. The human services department and the department
3 of health may adopt by regulation medicaid or medigrant
4 certification standards for long-term care facilities
5 participating in the federal medicaid or medigrant program "

6 Section 11. Section 27-2-12.5 NMSA 1978 (being Laws 1989,
7 Chapter 83, Section 1, as amended) is amended to read:

8 "27-2-12.5. MEDICAID- OR MEDIGRANT-CERTIFIED NURSING
9 FACILITIES--RETROACTIVE ELIGIBILITY--REFUNDS--PENALTY.--

10 A. A medicaid or medigrant payment for a medicaid-
11 or medigrant-eligible patient shall be accepted by a medicaid-
12 or medigrant-certified nursing facility from the first month of
13 medicaid or medigrant eligibility, regardless of whether the
14 eligibility is retroactive. The nursing facility shall refund
15 to the patient or responsible party all out-of-pocket money
16 except for required medical-care credits paid to the nursing
17 facility for that patient's care on and after the date of
18 medicaid or medigrant eligibility for services covered by the
19 medicaid or medigrant program. Within thirty days after
20 notification by the human services department of the patient's
21 medicaid or medigrant eligibility, the nursing facility shall
22 make any necessary refund to the patient or responsible party
23 required under this section.

24 B. In any cause of action brought against a nursing
25 facility because of its failure to make a refund to the patient

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

1 or responsible party as required under Subsection A of this
2 section, the patient or responsible party may be awarded triple
3 the amount of the money not refunded or three hundred dollars
4 (\$300), whichever is greater, and reasonable attorneys' fees and
5 court costs."

6 Section 12. Section 27-2-12.6 NMSA 1978 (being Laws 1994,
7 Chapter 62, Section 22) is amended to read:

8 "27-2-12.6. MEDICAID OR MEDIGRANT PAYMENTS--MANAGED
9 CARE.--

10 A. The department shall provide for a statewide,
11 managed care system to provide cost-efficient, preventive,
12 primary and acute care for medicaid or medigant recipients [by
13 ~~July 1, 1995~~].

14 B. The managed care system shall ensure:

15 (1) access to medically necessary services,
16 particularly for medicaid or medigant recipients with chronic
17 health problems;

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

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

23 (4) to the maximum extent possible, that
24 medicaid- or medigant-eligible individuals are not identified
25 as such except as necessary for billing purposes.

Underscored material = new
[bracketed material] = delete

1 C. The department may exclude nursing homes,
2 intermediate care facilities for the mentally retarded, medicaid
3 or medigrant in-home and community-based waiver services and
4 residential and community-based mental health services for
5 children with serious emotional disorders from the provisions of
6 this section."

7 Section 13. Section 27-2-23.1 NMSA 1978 (being Laws 1989,
8 Chapter 184, Section 1) is amended to read:

9 "27-2-23.1. EMPLOYEE RETIREMENT INCOME SECURITY ACT
10 EMPLOYEE HEALTH BENEFIT PLANS--CLAUSES TO EXCLUDE MEDICAID OR
11 MEDI GRANT COVERAGE PROHIBITED.--No employee health benefit plan
12 established under the Employee Retirement Income Security Act of
13 1974, 29 [~~U.S.C.~~] U.S.C.A. 1144 that provides payments for
14 health care on behalf of individuals residing in the state shall
15 contain any provisions excluding or limiting coverage or payment
16 for any health care for an individual who would otherwise be
17 covered or entitled to benefits or services under the terms of
18 the employee health benefit plan because that individual is
19 provided or is eligible for benefits under the medicaid or
20 medi grant program of this state pursuant to [~~Title XIX of~~] the
21 federal [~~Social Security Act, 42 U.S.C. 1396, et seq~~] act. "

22 Section 14. Section 27-2-27 NMSA 1978 (being Laws 1981,
23 Chapter 90, Section 1, as amended) is amended to read:

24 "27-2-27. SINGLE STATE AGENCY--POWERS AND DUTIES.--

25 A. The department is designated as the single state

Underscored material = new
[bracketed material] = delete

1 agency for the enforcement of child and spousal support
2 obligations pursuant to [~~Title IV D of~~] the federal act with the
3 following duties and powers:

4 [A-] (1) establish the paternity of a child in
5 the case of the child born out of wedlock with respect to whom
6 an assignment of support rights has been executed in favor of
7 the department;

8 [B-] (2) establish an order of support for
9 children receiving [~~aid~~] temporary assistance to needy families
10 [~~with dependent children~~] and, at the option of the department,
11 for the spouse or former spouse with whom such children are
12 living, but only if a support obligation has been established
13 with respect to such spouse or former spouse, for whom no order
14 of support [~~presently~~] currently exists, and seek modification,
15 based upon the noncustodial parent's ability to pay, of existing
16 orders in which the support order is inadequate to properly care
17 for the child and the spouse or former spouse with whom the
18 child is living;

19 [C-] (3) enforce as the real party in interest
20 any existing order for the support of children who are receiving
21 [~~aid~~] temporary assistance to needy families [~~with dependent~~
22 ~~children~~] or of the spouse or former spouse with whom such
23 children are living; and

24 [D-] (4) provide services to [~~non-aid~~] families
25 with dependent children not receiving temporary assistance to

Underscored material = new
[bracketed material] = delete

1 needy families in the establishment and enforcement of paternity
2 and child support obligations, including locating the absent
3 parent. For these services, the department is authorized to
4 establish and collect fees, costs and charges permitted or
5 required by federal law or by regulations adopted pursuant to
6 that federal law.

7 [E.] B. In all cases handled by the department
8 pursuant to the provisions of this section, the child support
9 enforcement division of the department and any attorney employed
10 by the division represent the department in establishing,
11 modifying and enforcing support obligations. "

12 Section 15. Section 27-2-28 NMSA 1978 (being Laws 1981,
13 Chapter 90, Section 2, as amended) is amended to read:

14 "27-2-28. LIABILITY FOR REPAYMENT OF PUBLIC
15 ASSISTANCE. --

16 A. A noncustodial parent is liable to the [~~human~~
17 ~~services~~] department [~~in~~] for the amount of the public
18 assistance lawfully and properly furnished to the children, and
19 the spouse or former spouse with whom such children are living,
20 to whom the noncustodial parent owes a duty of support; except
21 that if a support order has been entered, liability for the time
22 period covered by the support order shall not exceed the amount
23 of support provided for in the order.

24 B. Amounts of support due and owing for periods
25 prior to the granting of public assistance shall be paid to and

Underscored material = new
[bracketed material] = delete

1 retained by the [~~human services~~] department to the extent that
2 the amount of assistance granted exceeds the amount of the
3 monthly support obligation.

4 C. Amounts of support collected that are in excess
5 of the amounts specified in Subsections A and B of this section
6 shall be paid by the [~~human services~~] department to the
7 custodian of the child.

8 D. No agreement between any custodian of a child and
9 a parent of that child, either relieving the parent of any duty
10 of child or spousal support or responsibility or purporting to
11 settle past, present or future support obligations, either as a
12 settlement or prepayment, shall act to reduce or terminate any
13 rights of the [~~human services~~] department to recover from that
14 parent for support provided unless the [~~human services~~]
15 department has consented to the agreement in writing.

16 E. The noncustodial parent shall be given credit for
17 any support actually provided, including housing, clothing, food
18 or funds paid prior to the entry of any order for support. The
19 noncustodial parent has the burden on the issue of any payment.

20 F. An application for public assistance by any
21 person constitutes an assignment by operation of law of any
22 support rights the person is entitled to from any other person,
23 whether the support rights are owed to the applicant or to any
24 family member for whom the applicant is applying for or
25 receiving assistance. The assignment includes all support

Underscored material = new
[bracketed material] = delete

1 rights that have accrued at the time of application for public
2 assistance and continues as an assignment of all support rights
3 the applicant is entitled to for as long as the applicant
4 receives public assistance.

5 G. By operation of law, an assignment to the [~~human~~
6 ~~services~~] department of any and all rights of an applicant for
7 or recipient of medical assistance under the medicaid or
8 medigant program in New Mexico or supplemental security income
9 through the social security administration:

10 (1) is deemed to be made of:

11 (a) any payment for medical care from any
12 person, firm or corporation, including an insurance carrier; and

13 (b) any recovery for personal injury,
14 whether by judgment or contract for compromise or settlement;

15 (2) shall be effective to the extent of the
16 amount of medical assistance actually paid by the department
17 under the medicaid or medigant program; and

18 (3) shall be effective as to the rights of any
19 other individuals who are eligible for medical assistance and
20 whose rights can legally be assigned by the applicant or
21 recipient.

22 An applicant or recipient is required to cooperate fully
23 with the [~~human services~~] department in its efforts to secure
24 the assignment and to execute and deliver any instruments and
25 papers deemed necessary to complete the assignment by [~~that~~] the

Underscored material = new
[bracketed material] = delete

1 department. "

2 Section 16. Section 27-2-35 NMSA 1978 (being Laws 1941,
3 Chapter 116, Section 1, as amended) is amended to read:

4 "27-2-35. CUSTODY OF RECORDS--DISCLOSURE OF INFORMATION. --

5 The ~~[New Mexico]~~ department ~~[of public welfare shall have]~~ has
6 the power to [establish] adopt and enforce reasonable rules and
7 regulations governing the custody, use and preservation of the
8 records, papers, files and communications of ~~[its state and~~
9 ~~county departments]~~ the department and to restrict the use or
10 disclosure of information contained therein concerning
11 applications for and recipients of assistance of any kind to
12 purposes directly connected with the administration of
13 ~~[the Public Welfare Act]~~ Chapter 27 NMSA 1978 and of any related
14 federal act, except as ~~[hereinafter]~~ otherwise provided by an
15 applicable state or federal law.

16 ~~[a. RECORDS OPEN TO INSPECTION EXCEPTIONS. The~~
17 ~~department of public welfare shall, on or before the last day of~~
18 ~~each month, make available in the county office of the~~
19 ~~department of public welfare of each county a complete list~~
20 ~~showing all the names and addresses of all the recipients~~
21 ~~receiving payments under the Public Welfare Act within that~~
22 ~~county for the preceding month, together with the amount paid~~
23 ~~each during the said month. The reports shall be securely bound~~
24 ~~in a separate record book provided for that purpose which said.~~
25 ~~Book and all reports contained therein shall be, and the same~~

Underscored material = new
[bracketed material] = delete

1 hereby are declared to be public records and shall be open to
2 public inspection at all times during the regular office hours
3 of said office, subject to rules and regulations of the
4 department. Provided, however, that nothing herein contained
5 shall be construed to authorize or require the disclosure of any
6 record of the public welfare department pertaining to adoptions.

7 b. UNLAWFUL USES. Except as provided in this
8 Act, it shall be unlawful for any person, body, association,
9 firm corporation or any other agency to solicit, disclose,
10 receive make use of or to authorize, knowingly permit,
11 participate in or acquiesce in the use of any name or list of
12 names for commercial or political purposes of any nature.

13 c. PENALTY. Any person, body, association,
14 corporation or any other agency who shall wilfully or knowingly
15 violate any provision of this act, shall be guilty of a
16 misdemeanor and upon conviction shall be punished by a fine of
17 not less than twenty five dollars (\$25.00) nor more than one
18 thousand dollars (\$1,000), to which may be added imprisonment in
19 the county jail for any term or period not to exceed sixty
20 days.]"

21 Section 17. Section 27-2-43 NMSA 1978 (being Laws 1990,
22 Chapter 93, Section 3) is amended to read:

23 "27-2-43. DEFINITIONS. --As used in the Indigent
24 Catastrophic Illness Hospital Funding Act:

25 A. "department" means the human services department;

Underscored material = new
[bracketed material] = delete

1 B. "fund" means the indigent catastrophic illness
2 hospital fund;

3 C. "hospital" means any general or special hospital
4 that is licensed by the [~~health and environment~~] department of
5 health and that has annual gross charges for medicare, medicaid,
6 [~~and~~] medigant or indigent patients greater than ten percent of
7 the hospital's total annual gross charges; and

8 D. "medically indigent patient" means an individual
9 who is a New Mexico resident who incurs hospital charges, who is
10 not eligible for medicaid, medigant or medicare and whose
11 family or household income does not exceed two hundred fifty
12 percent of the federal poverty level. "

13 Section 18. Section 27-7-16 NMSA 1978 (being Laws 1989,
14 Chapter 389, Section 3, as amended) is amended to read:

15 "27-7-16. DEFINITIONS. --As used in the Adult Protective
16 Services Act:

17 A. "abuse" means:

18 (1) knowingly, intentionally or negligently and
19 without justifiable cause inflicting physical pain, injury or
20 mental anguish; or

21 (2) the intentional deprivation by a caretaker
22 or other person of services necessary to maintain the mental and
23 physical health of an adult;

24 B. "adult" means a person eighteen years of age or
25 older;

1 C. "appropriate facility" means any facility other
2 than a jail or detention facility;

3 D. "caretaker" means an individual or institution
4 that has assumed the responsibility for the care of an adult;

5 E. "conservator" means a person who is appointed by
6 a court to manage the estate of a protected adult;

7 F. "court" means the district court having
8 jurisdiction;

9 G. "department" means the [~~human services~~] children,
10 youth and families department;

11 H. "emergency" means that an adult is living in
12 conditions that present a substantial risk of death or immediate
13 and serious physical harm to himself or others;

14 I. "exploitation" means an unjust or improper use of
15 an adult's resources for another's profit or advantage,
16 pecuniary or otherwise;

17 J. "guardian" means a person who is a guardian of an
18 incapacitated adult pursuant to a court order;

19 K. "incapacitated adult" means any adult who
20 demonstrates over time partial or complete functional impairment
21 by reason of mental illness, mental deficiency, physical illness
22 or disability, chronic use of drugs, chronic intoxication or
23 other causes to the extent that he is unable to manage his
24 personal care or he is unable to manage his personal property
25 and financial affairs;

1 L. "independent living arrangements" means a mode of
2 life maintained on a continuing basis outside of a hospital,
3 veterans' administration hospital, nursing home or other
4 facility licensed by or under the jurisdiction of any state
5 agency;

6 M "interested person" means any adult relative, any
7 person who has an interest in the welfare of the adult to be
8 protected under the Adult Protective Services Act or any
9 official or representative of a protective services agency or of
10 any public or nonprofit agency, corporation, board or
11 organization eligible for designation as a protective services
12 agency;

13 N. "neglect" means failure of the caretaker of an
14 adult to provide basic needs such as clothing, food, shelter,
15 supervision and care for the physical and mental health for that
16 adult or failure by an adult to provide such basic needs for
17 himself;

18 O. "protected adult" means an adult for whom a
19 guardian or conservator has been appointed or other protective
20 order has been made;

21 P. "protective placement" means the transfer of an
22 adult from independent living arrangements to a hospital,
23 nursing home, domiciliary or residential care facility, or from
24 one such institution to another;

25 Q. "protective services" means the services

Underscored material = new
[bracketed material] = delete

1 furnished by the department or a protective services agency or
2 its delegate, as described in Section 27-7-21 NMSA 1978; and

3 R. "protective services agency" means a corporation,
4 board or organization authorized by the department pursuant to
5 the Adult Protective Services Act to furnish protective services
6 to protected or incapacitated adults or to serve as conservators
7 or guardians of protected or incapacitated adults upon
8 appointment by a court. "

9 Section 19. REPEAL. -- Sections 27-2-37 through 27-2-40 NMSA
10 1978 (being Laws 1980, Chapter 25, Sections 1 through 4, as
11 amended) are repealed.

State of New Mexico House of Representatives

FORTY- SECOND LEGISLATURE

SECOND SESSION, 1996

February 8, 1996

Mr. Speaker:

Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 433

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 2, line 22, strike ", "TANF", " and insert in lieu thereof "or".

2. On page 2, line 23, strike "or "temporary assistance to needy families"".

3. On page 2, line 25, after "children" strike the remainder of the line, and on page 3, line 1, strike "families".

4. On page 3, line 3, strike "or medigrant"".

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HCPAC/HB 433

Page 29

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

5. On page 3, line 9, before "Consistent" insert "A."

6. On page 3, line 12, strike "A." and insert in lieu thereof "(1)".

7. On page 3, line 15, strike "B." and insert in lieu thereof "(2)".

8. On page 3, line 18, strike "C." and insert in lieu thereof "(3)".

9. On page 4, line 2, strike "D." and insert in lieu thereof "(4)".

10. On page 4, line 4, strike the quotation marks.

11. On page 4, between lines 4 and 5, insert:

"B. For the purposes of determining eligibility pursuant to the provisions of this section the standard of need in effect on January 1, 1996 shall remain in effect thereafter and shall not be reduced or restricted.""

12. On page 5, strike all of lines 7 through 23.

13. Renumber the succeeding sections accordingly.

14. On page 6, lines 1 and 2, strike "PUBLIC TEMPORARY

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HCPAC/HB 433

Page 30

1
2 ASSISTANCE TO NEEDY FAMILIES" and insert in lieu thereof "AID TO
3 FAMILIES WITH DEPENDENT CHILDREN".

4
5 15. On page 7, line 15, strike "Temporary assistance to
6 needy families" and insert in lieu thereof "Aid to families with
7 dependent children".

8
9 16. On page 7, between lines 23 and 24, insert the following
10 new subsections to read:

11 "B. The department shall not impose the condition of
12 eligibility authorized pursuant to Paragraph (1) of Subsection A
13 of this section on an applicant or recipient for assistance if:

14 (1) the applicant or recipient is disabled within
15 the meaning of that term as used in the federal Social Security
16 Act;

17
18 (2) the applicant or recipient lacks financial
19 resources for or has insufficient geographic access to adequate
20 child care;

21 (3) the applicant or recipient is sixty years of
22 age or older; or

23
24 (4) a child under the age of one year is included
25 in the household of an applicant or recipient who is the parent or
stands in the relationship of parent to that child.

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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

C. The department shall not place an individual in or require an individual to accept employment pursuant to the provisions of Paragraph (1) of Subsection A of this section if the proposed employment:

(1) is not in a work setting having adequate standards for health, safety and other conditions applicable to the performance of the work; or

(2) would result in the displacement of an existing worker. "

17. On page 7, line 24, strike "B." and insert in lieu thereof "D. "

18. On page 8, lines 1 and 2, strike "temporary assistance to needy families" and insert in lieu thereof "aid to families with dependent children".

19. On page 8, line 16, remove the brackets and line through "aid" and strike "temporary assistance".

20. On page 8, line 17, strike "needy" and remove the brackets and line through "with dependent children".

21. On page 8, line 24, remove the brackets and line through "aid", strike "temporary assistance" and strike "needy"

Underscored material = new
[bracketed material] = delete

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

HCPAC/HB 433

Page 32

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

22. On page 8, lines 24 and 25, remove the brackets and line through "with dependent children".

23. On page 10, line 23, strike "OR MEDI GRANT".

24. On page 11, line 4, strike "or medigrant".

25. On page 11, strike all of lines 12 through 25.

26. Strike pages 12 through 15 and on page 16, strike lines 1 through 5 in their entirety.

27. Renumber the succeeding sections accordingly.

28. On page 16, line 8, strike "OR MEDI GRANT".

29. On page 16, line 12, strike "or medigrant".

30. On page 16, line 16, strike "or medigrant".

31. On page 16, line 24, strike "- or medigrant".

32. On page 17, line 3, strike "or medigrant".

33. On page 17, strike all of lines 7 through 25, strike pages 18 through 23 and on page 24, strike lines 1 through 12 in their entirety.

. 108742. 4GJ

Underscored material = new
~~[bracketed material] = delete~~

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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

34. Renumber the succeeding sections accordingly.

35. On page 27, between lines 11 and 12, insert the following new sections:

"Section 20. APPLICABILITY. --

A. The provisions of this act shall apply to an individual submitting a new application for benefits after its effective date.

B. The provisions of this act shall not apply to an individual already receiving benefits on July 1, 1996, but shall apply to that individual on the date of recertification for benefits for the individual occurring after July 1, 1996.

Section 21. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1996.",

and thence referred to the JUDICIARY COMMITTEE.

Underscored material = new
[bracketed material] = delete

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HCPAC/HB 433

Page 34

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

Respectfully submitted,

Gary K. King, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 1 Against

Yes: 7

No: Charley

Excused: Baca, Sandel, Vigil

Absent: None

. 111937. 1

H0433CP1

. 108742. 4GJ

Underscored material = new
[bracketed material] = delete

**State of New Mexico
House of Representatives**

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

February 12, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred
HOUSE BILL 433, as amended

has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 433

DO PASS, and thence referred to the APPROPRIATIONS AND
FINANCE COMMITTEE.

Respectfully submitted,

Ci sco McSorley, Chairman

FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996

HJC/SB 433

Page 36

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

Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 1 Against

Yes: 10

No: McSorley

Excused: Alwin, Sanchez, R. G.

Absent: None

H0433JC1

Underscored material = new
[bracketed material] = delete

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 433

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
1996

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING PROVISIONS OF THE PUBLIC
ASSISTANCE ACT AND OTHER PROVISIONS OF LAW RELATED TO PUBLIC
ASSISTANCE TO ACCOMPLISH WELFARE REFORM; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 27-2-1 NMSA 1978 (being Laws 1973,
Chapter 376, Section 1) is amended to read:

"27-2-1. SHORT TITLE. -- Sections ~~[1 through 20 of this act~~
~~and Sections 13-1-9, 13-1-10, 13-1-12, 13-1-13, 13-1-17,~~
~~13-1-18, 13-1-18.1, 13-1-19, 13-1-20, 13-1-20.1, 13-1-21,~~
~~3-1-22, 13-1-27, 13-1-27.2, 13-1-27.3, 13-1-27.4, 13-1-28,~~
~~13-1-28.6, 13-1-29, 13-1-30, 13-1-34, 13-1-35, 13-1-37, 13-1-39,~~
~~3-1-40, 13-1-41 and 13-1-42 NMSA 1953]~~ 27-2-1 through 27-2-36
NMSA 1978 may be cited as the "Public Assistance Act". "

Section 2. Section 27-2-2 NMSA 1978 (being Laws 1973,

1 Chapter 376, Section 2, as amended) is repealed and a new
2 Section 27-2-2 NMSA 1978 is enacted to read:

3 "27-2-2. [NEW MATERIAL] DEFINITIONS. --

4 A. As used in the Public Assistance Act:

5 (1) "department" means the human services
6 department;

7 (2) "federal act" means the applicable federal
8 law authorizing or regulating, or both, a federally funded state
9 administered public welfare program;

10 (3) "public welfare" or "public assistance"
11 means aid, assistance or relief granted to or on behalf of an
12 eligible individual pursuant to the provisions of the Public
13 Assistance Act or regulations adopted pursuant to that act;

14 (4) "recipient" means an individual who
15 receives public assistance or services pursuant to the Public
16 Assistance Act; and

17 (5) "secretary" means the secretary of human
18 services.

19 B. As used in Chapter 27 NMSA 1978:

20 (1) "AFDC" or "aid to families with dependent
21 children" means the state and federal welfare programs of aid to
22 families with dependent children and similar programs that
23 supersede or replace those programs; and

24 (2) "medicaid" means the state and federal
25 medical assistance programs authorized pursuant to the federal

1 act and known by those names and similar programs that supersede or
2 replace those programs. "

3 Section 3. Section 27-2-4 NMSA 1978 (being Laws 1973,
4 Chapter 376, Section 4, as amended) is amended to read:

5 "27-2-4. GENERAL ELIGIBILITY REQUIREMENTS. -- Consistent with
6 the federal act, a person is eligible for public assistance grants
7 under the Public Assistance Act if:

8 A. pursuant to Section [~~13-17-3 NMSA 1953~~] 27-2-3
9 NMSA 1978, the total amount of his nonexempt income is less than
10 the applicable standard of need; [~~and~~]

11 B. his nonexempt specific and total resources are
12 less than the level of maximum permissible resources established by
13 the [~~board; and~~] department;

14 C. he meets all qualifications for one of the
15 public assistance programs authorized by the Public Assistance Act;
16 and

17 [~~D. within two years immediately prior to the filing of~~
18 ~~an application for assistance, he has not made an assignment or~~
19 ~~transfer of real property unless he has received a reasonable~~
20 ~~return for the real property or, if he has not received such~~
21 ~~reasonable return, he is willing to attempt to obtain such return~~
22 ~~and, if such attempt proves futile, he is willing to attempt to~~
23 ~~regain title to the property; and~~

24 E.] D. he is not an inmate of any public
25 nonmedical institution at the time of receiving assistance [~~and~~

Underscored material = new
[bracketed material] = delete

1 ~~F. he is a resident of New Mexico]. "~~

2 Section 4. Section 27-2-5 NMSA 1978 (being Laws 1973,
3 Chapter 376, Section 5, as amended) is amended to read:

4 "27-2-5. AMOUNT AND FORM OF PUBLIC ASSISTANCE GRANT. -- ~~[A.]~~

5 The amount and form of an eligible person's ~~[maximum grant of]~~
6 public assistance is determined ~~[by deducting the total amount of~~
7 ~~his nonexempt income from the applicable standard of need. However,~~
8 ~~if the amount of federal and state funds available for public~~
9 ~~assistance is insufficient to provide the grants for all eligible~~
10 ~~persons, the amount of grants to eligible persons may be reduced as~~
11 ~~necessary.~~

12 ~~B. The secretary of human services may set individual~~
13 ~~and family maximum and minimum grant levels for each program]~~
14 pursuant to regulations adopted by the department. These
15 regulations shall include provisions for public assistance programs
16 that:

17 A. are designed to operate within legislative
18 appropriations;

19 B. include provisions for cash benefits, payments to
20 vendors on behalf of recipients and other noncash benefits; and

21 C. are not more restrictive than permitted by federal
22 law. "

23 Section 5. Section 27-2-6.2 NMSA 1978 (being Laws 1988,
24 Chapter 122, Section 1) is amended to read:

25 "27-2-6.2. ~~[PUBLIC ASSISTANCE]~~ AID TO FAMILIES WITH

DEPENDENT CHILDREN-- EMPLOYMENT, [AND] TRAINING AND COMMUNITY SERVICE ELIGIBILITY REQUIREMENTS-- STATUS OF RECIPIENTS. --

~~[A. In the administration of all food stamp employment and training programs, community work experience programs, work incentive demonstration programs for recipients of aid to families with dependent children and all other work registration, work incentive or employment and training programs established or conducted by the human services department, participation of recipients shall be voluntary except as prohibited by federal law or when mandatory participation is a requirement in order to secure federal funding for services provided.~~

~~B. Any waiver requests developed and submitted to the federal government by the human services department for food stamp employment and training programs, community work experience programs, work incentive demonstration programs for recipients of aid to families with dependent children and all other work registration, work incentive or employment, education and training programs shall include a voluntary program and may also include a mandatory alternative.~~

~~C. The human services department shall promulgate regulations which shall be published and made available for public notice and comment which detail the criteria for mandatory participation and exemptions in accordance with federal law and regulations for persons in work, education, training, job search and work experience programs administered by the human services~~

Underscored material = new
[bracketed material] = delete

1 ~~department prior to their implementation.~~

2 ~~D. The human services department shall not place~~
3 ~~persons in any community work experience or similar program unless:~~

4 ~~(1) appropriate standards for health, safety and~~
5 ~~other conditions applicable to the performance of work are met;~~

6 ~~(2) the program does not result in displacement of~~
7 ~~persons currently employed; and~~

8 ~~(3) provision is made for transportation, day~~
9 ~~care and other costs necessary and directly related to~~
10 ~~participation in the program]~~

11 A. Aid to families with dependent children is provided
12 pursuant to regulations adopted by the department. These
13 regulations shall include provisions:

14 (1) authorizing the department to require as a
15 condition of eligibility for a recipient the participation by a
16 recipient in programs of employment, educational or training
17 services or community services; and

18 (2) that are no more restrictive than the federal
19 law permits.

20 B. The department shall not impose the condition of
21 eligibility authorized pursuant to Paragraph (1) of Subsection A of
22 this section on an applicant or recipient for assistance if:

23 (1) the applicant or recipient is disabled as
24 determined by regulations adopted by the department;

25 (2) the applicant or recipient lacks financial

resources for or has insufficient geographic access to adequate child care;

(3) the applicant or recipient lacks financial resources for transportation costs or other costs directly related to participation in the program.

(4) the applicant or recipient is sixty years of age or older;

(5) a child under the age of one year is included in the household of an applicant or recipient who is the parent or stands in the relationship of parent to that child; or

(6) the applicant or recipient is otherwise excluded from participation pursuant to regulations adopted by the department.

C. The department shall not place an individual in or require an individual to accept employment pursuant to the provisions of Paragraph (1) of Subsection A of this section if the proposed employment:

(1) is not in a work setting having adequate standards for health, safety and other conditions applicable to the performance of the work; or

(2) would result in the displacement of an existing worker.

D. A recipient who is employed, participating in a training or educational program or providing community services as a condition of eligibility for receipt of aid to families with

Underscored material = new
[bracketed material] = delete

1 dependent children is not an employee of the department for any
2 purposes, except as may be otherwise provided in the Unemployment
3 Compensation Law, and is not entitled to any employee benefits."

4 Section 6. Section 27-2-9 NMSA 1978 (being Laws 1973,
5 Chapter 376, Section 13) is amended to read:

6 "27-2-9. PAYMENT FOR HOSPITAL CARE. --

7 A. Consistent with the federal act, the department
8 shall provide necessary hospital care for recipients of public
9 assistance other than those eligible under the general assistance
10 program authorized by Section ~~[10 of the Public Assistance Act]~~
11 27-2-7 NMSA 1978. ~~[The rate of]~~ Payment for inpatient hospital
12 services shall be ~~[based either on the reasonable cost or the~~
13 ~~customary cost of such services, whichever is less. In determining~~
14 ~~reasonable cost under this section, the board shall adopt~~
15 ~~regulations establishing a formula]~~:

16 (1) at a reasonable rate established by
17 regulations adopted by the department that are consistent with the
18 federal act ~~[The department shall apply that formula to determine~~
19 ~~the amount to which each hospital is entitled as reimbursement for~~
20 ~~providing in-patient hospital services]~~; or

21 (2) if the hospital care is provided pursuant to
22 a managed care contract, at a rate or in an amount determined as
23 provided in that contract.

24 B. To receive reimbursement for providing in-patient
25 hospital services, a hospital shall file annually with the

1 department [~~such~~] information as required by the department [~~may~~
2 ~~reasonably require to determine reasonable costs or the hospital's~~
3 ~~customary cost of in-patient hospital services~~] pursuant to its
4 regulations.

5 C. [~~Any~~] A hospital entitled to reimbursement for in-
6 patient hospital services [~~shall be~~] is entitled to a hearing,
7 pursuant to regulations of the [~~board consistent with applicable~~
8 ~~state law~~] department if the hospital disagrees with the
9 department's determination of the reimbursement the hospital is to
10 receive. "

11 Section 7. Section 27-2-12.3 NMSA 1978 (being Laws 1987,
12 Chapter 269, Section 1) is amended to read:

13 "27-2-12.3. MEDICAID REIMBURSEMENT [~~EQUAL PAY FOR EQUAL~~
14 ~~PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND~~
15 ~~PSYCHOLOGISTS' SERVICES~~]. -- The [~~human services~~] department shall
16 establish [~~a rate~~] reasonable rates by regulation for the
17 reimbursement of [~~physicians, dentists, optometrists, podiatrists~~
18 ~~and psychologists for~~] providers of services rendered to medicaid
19 patients [~~that provides equal reimbursement for the same or similar~~
20 ~~services rendered without respect to the date on which such~~
21 ~~physician, dentist, optometrist, podiatrist or psychologist entered~~
22 ~~into practice in New Mexico, the date on which the physician,~~
23 ~~dentist, optometrist, podiatrist or psychologist entered into an~~
24 ~~agreement or contract to provide such services or the location in~~
25 ~~which such services are to be provided in the state~~]. "

1 Section 8. Section 27-2-12.6 NMSA 1978 (being Laws 1994,
2 Chapter 62, Section 22) is amended to read:

3 "27-2-12.6. MEDICAID PAYMENTS--MANAGED CARE. --

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

7 B. The managed care system shall ensure:

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

10 (2) [~~to the extent practicable~~] maintenance of
11 [~~the~~] a rural primary care delivery infrastructure;

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

14 (4) to the maximum extent possible, that
15 medicaid-eligible individuals are not identified as such except as
16 necessary for billing purposes.

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

22 Section 9. Section 27-7-16 NMSA 1978 (being Laws 1989,
23 Chapter 389, Section 3, as amended) is amended to read:

24 "27-7-16. DEFINITIONS. --As used in the Adult Protective
25 Services Act:

1 A. "abuse" means:

2 (1) knowingly, intentionally or negligently and
3 without justifiable cause inflicting physical pain, injury or
4 mental anguish; or

5 (2) the intentional deprivation by a caretaker or
6 other person of services necessary to maintain the mental and
7 physical health of an adult;

8 B. "adult" means a person eighteen years of age or
9 older;

10 C. "appropriate facility" means any facility other than
11 a jail or detention facility;

12 D. "caretaker" means an individual or institution that
13 has assumed the responsibility for the care of an adult;

14 E. "conservator" means a person who is appointed by a
15 court to manage the estate of a protected adult;

16 F. "court" means the district court having
17 jurisdiction;

18 G. "department" means the [~~human services~~] children,
19 youth and families department;

20 H. "emergency" means that an adult is living in
21 conditions that present a substantial risk of death or immediate
22 and serious physical harm to himself or others;

23 I. "exploitation" means an unjust or improper use of an
24 adult's resources for another's profit or advantage, pecuniary or
25 otherwise;

1 J. "guardian" means a person who is a guardian of an
2 incapacitated adult pursuant to a court order;

3 K. "incapacitated adult" means any adult who
4 demonstrates over time partial or complete functional impairment by
5 reason of mental illness, mental deficiency, physical illness or
6 disability, chronic use of drugs, chronic intoxication or other
7 causes to the extent that he is unable to manage his personal care
8 or he is unable to manage his personal property and financial
9 affairs;

10 L. "independent living arrangements" means a mode of
11 life maintained on a continuing basis outside of a hospital,
12 veterans' administration hospital, nursing home or other facility
13 licensed by or under the jurisdiction of any state agency;

14 M. "interested person" means any adult relative, any
15 person who has an interest in the welfare of the adult to be
16 protected under the Adult Protective Services Act or any official
17 or representative of a protective services agency or of any public
18 or nonprofit agency, corporation, board or organization eligible
19 for designation as a protective services agency;

20 N. "neglect" means failure of the caretaker of an adult
21 to provide basic needs such as clothing, food, shelter, supervision
22 and care for the physical and mental health for that adult or
23 failure by an adult to provide such basic needs for himself;

24 O. "protected adult" means an adult for whom a guardian
25 or conservator has been appointed or other protective order has

1 been made;

2 P. "protective placement" means the transfer of an
3 adult from independent living arrangements to a hospital, nursing
4 home, domiciliary or residential care facility, or from one such
5 institution to another;

6 Q. "protective services" means the services furnished
7 by the department or a protective services agency or its delegate,
8 as described in Section 27-7-21 NMSA 1978; and

9 R. "protective services agency" means a corporation,
10 board or organization authorized by the department pursuant to the
11 Adult Protective Services Act to furnish protective services to
12 protected or incapacitated adults or to serve as conservators or
13 guardians of protected or incapacitated adults upon appointment by
14 a court. "

15 Section 10. REPEAL. -- Sections 27-2-37 through 27-2-40 NMSA
16 1978 (being Laws 1980, Chapter 25, Sections 1 through 4, as
17 amended) are repealed.

18 Section 11. APPLICABILITY. --

19 A. The provisions of this act shall apply to an
20 individual submitting a new application for benefits after its
21 effective date.

22 B. The provisions of this act shall not apply to an
23 individual already receiving benefits on July 1, 1996 but shall
24 apply to that individual on the date of recertification for
25 benefits for the individual occurring after July 1, 1996.

Underscored material = new
[bracketed material] = delete

1 Section 12. EFFECTIVE DATE. --The effective date of the
2 provisions of this act is July 1, 1996.

3 - 50 -
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Underscored material = new
~~[bracketed material] = delete~~