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SENATE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO MEDICAL ASSISTANCE; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE THE SECRETARY OF HUMAN SERVICES TO ESTABLISH A COMMUNITY FIRST CHOICE PROGRAM MEDICAID BENEFIT TO PROVIDE ELIGIBLE RECIPIENTS WITH HOME- AND COMMUNITY-BASED ATTENDANT SERVICES.

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, 13-1-22, 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, 13-1-40, 13-1-41 and 13-1-42 NMSA 1953]~~ 27-2-1 through .187850.1

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1 27-2-34 NMSA 1978 and Section 2 of this 2012 act may be cited
2 as the "Public Assistance Act"."

3 SECTION 2. A new section of the Public Assistance Act is
4 enacted to read:

5 "[NEW MATERIAL] COMMUNITY FIRST CHOICE PROGRAM--
6 ESTABLISHMENT--STATE PLAN AMENDMENT--DEVELOPMENT AND
7 IMPLEMENTATION COUNCIL.--

8 A. Subject to approval by federal authorities, the
9 department shall establish a medicaid benefit called the
10 community first choice program that offers community-based
11 attendant services to recipients who volunteer to participate
12 in the program and:

13 (1) whose household incomes do not exceed one
14 hundred fifty percent of the federal poverty level; or

15 (2) who qualify for institutional care
16 medicaid and with respect to whom the department has determined
17 that, but for the provision of these attendant services, the
18 recipient would require an institutional level of care.

19 B. The community first choice program shall assist
20 eligible recipients in accomplishing activities of daily
21 living, instrumental activities of daily living and health-
22 related tasks through hands-on assistance, supervision or
23 cueing in a person-centered plan that is based on an assessment
24 of the recipients' functional needs.

25 C. The department shall establish a development and

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1 implementation council whose members shall include volunteers,
2 a majority of whom shall be individuals living with
3 disabilities, individuals over sixty-five years of age and
4 individuals who represent individuals living with disabilities
5 or who are over sixty-five years of age. The department shall
6 develop and implement the community first choice program in
7 collaboration with the development and implementation council.

8 D. The department shall provide services pursuant
9 to the community first choice program on a statewide basis, in
10 a recipient-directed manner and in the most integrated setting
11 appropriate to the recipient's needs. The department shall
12 provide community first choice program services without regard
13 to the recipient's age, type or nature of disability, severity
14 of disability or the form of home- and community-based
15 attendant services and supports that the individual requires in
16 order to lead an independent life.

17 E. For expenditures during the first fiscal year in
18 which the community first choice program is implemented, the
19 department shall maintain or exceed the level of expenditures
20 for medical assistance on behalf of recipients living with
21 disabilities or individuals over the age of sixty-five years
22 attributable to the preceding fiscal year.

23 F. The department shall establish and maintain a
24 comprehensive, continuous quality assurance system with respect
25 to the community first choice program that shall:

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1 (1) include standards for agency-based and
2 other delivery models with respect to training, appeals for
3 denials and reconsideration procedures of an individual plan in
4 compliance with federal law;

5 (2) incorporate feedback from recipients and
6 their representatives, disability organizations, providers of
7 services under the community first choice program, families of
8 disabled or elderly individuals, members of the community and
9 others and maximize recipients' independence and control;

10 (3) monitor the health and well-being of each
11 recipient of services under the community first choice program,
12 including a process for the mandatory reporting, investigation
13 and resolution of allegations of neglect, abuse or exploitation
14 in connection with the provision of these services; and

15 (4) provide information about the provisions
16 of the quality assurance required pursuant to this subsection
17 to each individual receiving these services.

18 G. The department shall collect and report
19 information to the United States department of health and human
20 services, as determined necessary under federal law, for the
21 purposes of approving the state medicaid plan amendment and
22 providing legislative and federal oversight and evaluation.
23 This information shall include the following data regarding how
24 the state provides home- and community-based services:

25 (1) the cost of providing services under the

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1 community first choice program;

2 (2) the number of individuals whom the
3 department estimates as receiving services under the program
4 during the previous and current federal fiscal years;

5 (3) the ages, genders, education levels,
6 employment status and types of disabilities of the recipients
7 participating in the program;

8 (4) whether the recipients have been
9 previously served under any other home- or community-based
10 services program under the state medicaid plan or a waiver; and

11 (5) whether recipients participating in the
12 program otherwise qualify for institutional care medicaid under
13 the state plan or a waiver.

14 H. As used in this section:

15 (1) "health-related task" means a specific
16 task related to the health needs of an individual, which task a
17 person may legally perform in the state within that person's
18 scope of practice;

19 (2) "recipient-directed manner" means a way of
20 providing services that allows the recipient or, where
21 appropriate, the recipient's representative, maximum control of
22 the way in which the attendant services are provided,
23 regardless of who employs the person that provides the
24 services; and

25 (3) "recipient's representative" means the

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1 recipient's legal representative or an individual whom the
2 recipient authorizes as a representative."

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