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HOUSE BILL

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

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING A SECTION OF THE PUBLIC ASSISTANCE ACT TO BAN MANDATORY ENROLLMENT OF NATIVE AMERICANS IN MEDICAID MANAGED CARE.

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

SECTION 1. 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--NATIVE AMERICANS OPTIONAL ENROLLMENT--NOTICE REQUIREMENTS.--

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

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1 problems;

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

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

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

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

16 D. The department shall not require the enrollment  
17 in a managed care program of any recipient who self-identifies  
18 as a Native American.

19 E. The department shall afford any recipient who  
20 self-identifies as a Native American the option of enrolling in  
21 a medicaid managed care program or a medicaid fee-for-service  
22 program for medical or behavioral health services. Upon  
23 determination of medicaid eligibility, a Native American may  
24 choose to enroll in a medicaid managed care program or a  
25 medicaid fee-for-service program.

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1           F. At the time of enrollment in medicaid, the  
2 department shall provide notice to Native American applicants  
3 and recipients that states clearly and prominently that Native  
4 American recipients are not required to enroll in a medicaid  
5 managed care program. In any communications requesting the  
6 selection of a medicaid managed care organization, the  
7 department must provide applicants and recipients with the  
8 opportunity to identify themselves as Native Americans and  
9 select the medicaid fee-for-service program.

10           G. The department shall enroll a Native American  
11 recipient into the medicaid fee-for-service program unless the  
12 recipient affirmatively chooses to enroll in a medicaid managed  
13 care organization.

14           H. The department shall provide Native American  
15 recipients the opportunity, on an individual basis, to enroll  
16 in or disenroll from a medicaid managed care program or a  
17 medicaid fee-for-service program every six months.

18           I. The department and each managed care entity with  
19 which the department contracts to provide medicaid coverage  
20 shall clearly and prominently state on each notice, letter,  
21 informational material or instructional or marketing material  
22 relating to managed care enrollment, distributed to or made  
23 publicly available to recipients and potential recipients of  
24 medicaid, that Native American recipients or potential  
25 recipients are not required to enroll in a medicaid managed

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1 care program. This statement shall be provided in a manner and  
2 form that may be easily understood by Native American  
3 recipients and potential recipients."

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