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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC ASSISTANCE; REQUIRING THE HUMAN SERVICES DEPARTMENT TO PROVIDE FOR CONTINUED MEDICAID ENROLLMENT FOR ELIGIBLE INCARCERATED INDIVIDUALS WHO WERE ENROLLED IN MEDICAID UPON INCARCERATION AND NEW ENROLLMENT IN MEDICAID FOR INDIVIDUALS RELEASED FROM INCARCERATION.

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

SECTION 1. [NEW MATERIAL] INCARCERATED INDIVIDUALS-- MEDICAID ENROLLMENT--ENROLLMENT ASSISTANCE.--

A. The secretary of human services shall adopt and promulgate rules to provide that an incarcerated individual who was enrolled in medicaid until the date of incarceration shall remain enrolled in medicaid and shall not be terminated from enrollment in medicaid upon incarceration and that:

- (1) during the time the incarcerated

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1 individual is incarcerated, reimbursement shall not be made for
2 a claim submitted for payment on behalf of the incarcerated
3 individual, except a claim for which federal medical assistance
4 percentage reimbursement is available, including inpatient
5 services furnished at a health care facility outside the
6 premises of incarceration; and

7 (2) upon release from incarceration, the
8 formerly incarcerated individual shall remain enrolled in
9 medicaid until the individual is determined to be ineligible
10 for medicaid as provided by federal law on grounds other than
11 incarceration.

12 B. The secretary of human services shall adopt and
13 promulgate rules to provide that an incarcerated individual who
14 was not enrolled in medicaid upon the date that the individual
15 became incarcerated shall be permitted to submit an application
16 for medicaid enrollment during the incarcerated individual's
17 period of incarceration. To execute the provisions of this
18 subsection, the human services department shall create a
19 process for assisting incarcerated individuals with applying to
20 enroll in medicaid in a manner consistent with federal
21 requirements. The human services department shall:

22 (1) ensure that every incarcerated individual
23 is informed of the individual's right to apply to enroll in
24 medicaid and, upon the individual's request, is provided with
25 an application to enroll in medicaid;

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1 (2) provide assistance to incarcerated
2 individuals who apply to enroll in medicaid and who request
3 assistance. This assistance shall include:

4 (a) providing incarcerated individuals
5 with application forms;

6 (b) obtaining medical information, proof
7 of eligibility and other information required to support an
8 application for enrollment in medicaid; and

9 (c) completing and submitting medicaid
10 applications;

11 (3) provide assistance to incarcerated
12 individuals in completing periodic verification of eligibility
13 for enrollment in medicaid. This assistance shall include:

14 (a) providing incarcerated individuals
15 with the forms necessary for eligibility verification;

16 (b) obtaining medical information, proof
17 of eligibility and other information required to support a
18 periodic verification of eligibility for enrollment in
19 medicaid; and

20 (c) completing and submitting a periodic
21 verification of eligibility for enrollment in medicaid;

22 (4) ensure that an incarcerated individual who
23 wishes to receive an assessment of eligibility for enrollment
24 in medicaid receives that assessment before the incarcerated
25 individual is released from custody. This process shall be

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1 initiated:

2 (a) immediately after the release date
3 becomes known to the incarceration facility when the
4 incarcerated individual's period of incarceration is projected
5 upon incarceration to be at least thirty days; or

6 (b) immediately upon incarceration when
7 the incarcerated individual's period of incarceration is
8 projected upon incarceration to be less than thirty days;

9 (5) ascertain upon the incarceration of an
10 individual whether the incarcerated individual was enrolled in
11 medicaid until the date of incarceration and, if so, assist
12 that individual in notifying the human services department to
13 ensure that the individual receives all correspondence that the
14 human services department transmits to the incarcerated
15 individual during the individual's incarceration; and

16 (6) ensure that any incarcerated individual
17 assisted pursuant to this section receives any notification or
18 correspondence that the human services department transmits to
19 the incarcerated individual during the individual's
20 incarceration.

21 C. The fact that an individual who submits an
22 application for enrollment in medicaid is incarcerated shall
23 not be grounds for the human services department to refuse to
24 process an application for medicaid enrollment that the
25 incarcerated individual submits in a manner otherwise in

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1 accordance with state law and the rules of the human services
2 department.

3 D. The provisions of this section shall not be
4 construed to abrogate:

5 (1) any deadline that governs the processing
6 of applications for enrollment in medicaid pursuant to existing
7 federal or state law; or

8 (2) requirements under federal or state law
9 that the human services department be notified of changes in
10 income or residency.

11 E. The secretary of human services shall
12 collaborate and cooperate with the corrections department, the
13 children, youth and families department and the administrators
14 of each of the correctional facilities in the state to carry
15 out the provisions of this act.

16 F. As used in this section:

17 (1) "incarcerated individual" means an
18 individual, the legal guardian or conservator of an individual
19 or, for an individual who is an unemancipated minor, the parent
20 or guardian of the individual, who is confined in any of the
21 following correctional facilities:

- 22 (a) a state correctional facility;
23 (b) a privately operated correctional
24 facility;
25 (c) a county jail;

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1 (d) a municipal jail;
2 (e) a privately operated jail;
3 (f) a detention facility that is
4 operated under the authority of the children, youth and
5 families department and that holds the individual pending a
6 court hearing; or

7 (g) a facility that is operated under
8 the authority of the children, youth and families department
9 and that provides for the care and rehabilitation of an
10 individual who is under eighteen years of age and who has
11 committed an act that would be designated as a crime under the
12 law if committed by an individual who is eighteen years of age
13 or older;

14 (2) "medicaid" means the joint federal-state
15 health coverage program pursuant to Title 19 or Title 21 of the
16 federal Social Security Act and rules promulgated pursuant to
17 that act; and

18 (3) "unemancipated minor" means an individual
19 who is under eighteen years of age and who:

20 (a) is not on active duty in the armed
21 forces; and

22 (b) has not been declared by court order
23 to be emancipated.