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HOUSE BILL 165

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Luciano "Lucky" Varela

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH; ENACTING THE HEALTH CARE ACCESS ACT;
CREATING THE ESSENTIAL COMMUNITY PROVIDER FUND; PROVIDING FOR
TRANSFERS AND DISTRIBUTIONS TO THE FUND; PROVIDING FOR
DISBURSEMENTS FROM THE FUND; AMENDING CERTAIN SECTIONS OF THE
NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Health Care Access
Act".

Section 2. [NEW MATERIAL] FINDINGS.--The legislature
finds that as a matter of public policy it is necessary to
provide health care access to the underserved population in
New Mexico. The legislature further finds that it is
necessary to provide flexible and shared solutions to address
the problems of the underserved.

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1 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
2 Health Care Access Act:

3 A. "contributing entity" means a unit of local
4 government when making transfers to the fund pursuant to the
5 Indigent Hospital and County Health Care Act or from other
6 sources; the department when making transfers to the fund
7 from appropriations made for the purposes of the Rural
8 Primary Health Care Act; or a state institution that makes
9 transfers to the fund for the purposes of obtaining benefits
10 pursuant to the Health Care Access Act;

11 B. "department" means the department of health;

12 C. "essential community provider" means an entity
13 that serves a qualifying level of indigents as determined by
14 rule of the department, serves a health care underserved area
15 or a health care underserved population, participates in the
16 medicaid and medicare programs and has been designated as an
17 essential community provider by the department. Essential
18 community providers may include sole community provider
19 hospitals as designated by the federal health care financing
20 authority, hospitals qualified to receive disproportionate-
21 share medicaid or medicare payments; primary care providers
22 in federally designated medically underserved or health
23 professional shortage areas; school health programs that are
24 linked to an eligible provider; public health departments;
25 federally qualified health centers and rural health clinics;
nonprofit primary care clinics; essential access community
hospitals as designated by the federal health care financing

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1 authority; home health agencies; behavioral health agencies;
2 and other health care providers determined to be essential to
3 a comprehensive delivery network by the department;

4 D. "essential community provider network" means
5 two or more essential community providers that, pursuant to
6 an agreement, join together for the purpose of obtaining
7 funds and providing services pursuant to the provisions of
8 the Health Care Access Act; and

9 E. "fund" means the essential community provider
10 fund.

11 Section 4. [NEW MATERIAL] FUND CREATED--TRANSFERS--
12 MATCH.--

13 A. The "essential community provider fund" is
14 created in the state treasury. The fund shall consist of
15 money transferred to the fund by contributing entities, money
16 appropriated to the fund and money transferred to the fund by
17 the department or human services department pursuant to law.
18 Earnings of the fund shall be credited to the fund, and
19 unexpended or unencumbered balances in the fund shall not
20 revert. Disbursements from the fund shall be made only by
21 warrants issued by the department of finance and
22 administration upon vouchers signed by the secretary of
23 health. Money in the fund is appropriated to the department
24 for the purposes of complying with the provisions of the
25 Health Care Access Act.

B. Each fiscal year, by a deadline established by
rule of the department, a contributing entity may transfer

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1 money to the fund for the purposes of obtaining services for
2 underserved populations pursuant to the Health Care Access
3 Act. The department or human services department shall match
4 money transferred to the fund by a contributing entity with
5 any eligible and available federal or state funds or grants.
6 If, within the time frame set by rule of the department, the
7 department or human services department is unable to match
8 the money transferred by the contributing entity, the amount
9 transferred shall be refunded to the contributing entity.
10 If, within that time frame, the department or human services
11 department is able to match the money transferred by the
12 contributing entity, distributions shall be made from the
13 fund pursuant to Section 5 of the Health Care Access Act.

14 Section 5. [NEW MATERIAL] PAYMENTS TO ESSENTIAL
15 COMMUNITY PROVIDERS.--

16 A. The department may enter into an agreement with
17 an essential community provider, an essential community
18 provider network or a participating local government to make
19 distributions from the fund for health care services provided
20 to the underserved. In entering into the agreements, the
21 parties shall incorporate provisions that will promote
22 preventive care and improve health status, access, continuity
23 of care, personal responsibility and other principles that
24 promote quality and efficiency in a health care delivery
25 system. Distributions from the fund shall be made pursuant
to the agreements; provided that:

- (1) a non-department contributing entity

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1 shall be benefited by payments from the fund in the same
2 proportion as its contributions to the total contributions
3 made by all non-department contributing entities to the fund;

4 (2) the department shall develop a formula
5 based on the indigency level of a county population as a
6 percentage of the indigency level of the state population,
7 which will be extrapolated from income level, and distribute
8 money being allocated under the Health Care Access Act based
9 on that percentage. If a county contributes less than its
10 maximum allowable contribution percentage, the department
11 shall proportionately increase the maximum allowable
12 contribution percentage for the other counties;

13 (3) in no instance shall a county receive a
14 distribution from the fund that is less than its contribution
15 to the fund;

16 (4) voluntary local government transfers to
17 the fund and the resulting amounts after matching with
18 available funds shall be distributed to the contributing
19 local governments in proportion to the amounts transferred by
20 the local governments to meet the purposes of the Health Care
21 Access Act;

22 (5) state appropriations and transfers to
23 the fund and the resulting amounts after matching with
24 available funds shall be distributed in proportion to the
25 amounts transferred to meet the purposes of Section 24-1A-3.1
NMSA 1978; and

(6) no distributions shall be made from the

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1 fund to supplant any general fund support for the medicaid
2 program.

3 B. The department shall promulgate such rules as
4 are necessary to carry out the provisions of the Health Care
5 Access Act.

6 Section 6. Section 24-1A-1 NMSA 1978 (being Laws 1981,
7 Chapter 295, Section 1) is amended to read:

8 "24-1A-1. SHORT TITLE.--~~[This act]~~ Chapter 24, Article
9 1A NMSA 1978 may be cited as the "Rural Primary Health Care
10 Act".

11 Section 7. Section 24-1A-3.1 NMSA 1978 (being Laws
12 1983, Chapter 236, Section 3, as amended) is amended to read:

13 "24-1A-3.1. DEPARTMENT--TECHNICAL AND FINANCIAL
14 ASSISTANCE.--To the extent funds are made available for the
15 purposes of the Rural Primary Health Care Act, the department
16 is authorized to:

17 A. provide for a program to recruit and retain
18 health care personnel in health care underserved areas;

19 B. develop plans for and coordinate the efforts of
20 other public and private entities assisting in the provision
21 of primary health care services through eligible programs;

22 C. provide for technical assistance to eligible
23 programs in the areas of administrative and financial
24 management, clinical services, outreach and planning;

25 D. provide for distribution of financial
assistance to eligible programs that have applied for and
demonstrated a need for assistance in order to sustain a

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1 minimum level of delivery of primary health care services;

2 [~~and~~]

3 E. provide a program for enabling the development
4 of new primary care health care services or facilities, and
5 that program:

6 (1) shall give preference to communities
7 that have few or no community-based primary care services;

8 (2) may require in-kind support from local
9 communities where primary care health care services or
10 facilities are established;

11 (3) may require primary care health care
12 services or facilities to [~~assure~~] ensure provision of health
13 care to the medically indigent; and

14 (4) shall permit the implementation of
15 innovative and creative uses of local or statewide health
16 care resources, or both, other than those listed in
17 Paragraphs (2) and (3) of this subsection; and

18 F. transfer available appropriations made to
19 fulfill the purposes of the Rural Primary Health Care Act to
20 the essential community provider fund pursuant to the Health
21 Care Access Act for the purpose of matching available federal
22 funds; provided that the resulting distributions from the
23 essential community provider fund are used to meet the
24 purposes of Subsections A through E of this section. The
25 department shall be benefited by distributions from the fund
for the purposes of the Rural Primary Health Care Act in the
same proportion as the transfers made by the department to

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1 the fund, but in no case shall the department receive a
2 distribution from the fund for the purposes of the Rural
3 Primary Health Care Act that is less than the transfer it
4 makes to the fund, plus any matching funds received as a
5 result of the transfer."

6 Section 8. Section 27-5-6 NMSA 1978 (being Laws 1965,
7 Chapter 234, Section 6, as amended) is amended to read:

8 "27-5-6. POWERS AND DUTIES OF THE BOARD.--The board:

9 A. shall administer claims pursuant to the
10 provisions of the Indigent Hospital and County Health Care
11 Act;

12 B. shall prepare and submit a budget to the board
13 of county commissioners for the amount needed to defray
14 claims made upon the fund and to pay costs of administration
15 of the Indigent Hospital and County Health Care Act and costs
16 of development of a countywide or multicounty health plan.
17 The combined costs of administration and planning shall in no
18 event exceed the following percentages of revenues based on
19 the previous fiscal year revenues for a fund that has existed
20 for at least one fiscal year or based on projected revenues
21 for the year being budgeted for a fund that has existed for
22 less than one fiscal year. The percentage of the revenues in
23 the fund that may be used for such combined administrative
24 and planning costs is equal to the sum of the following:

25 (1) ten percent of the amount of the
revenues in the fund not over five hundred thousand dollars
(\$500,000);

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1 (2) eight percent of the amount of the
2 revenues in the fund over five hundred thousand dollars
3 (\$500,000) but not over one million dollars (\$1,000,000); and

4 (3) four and one-half percent of the amount
5 of the revenues in the fund over one million dollars
6 (\$1,000,000);

7 C. shall make rules ~~[and regulations]~~ necessary to
8 carry out the provisions of the Indigent Hospital and County
9 Health Care Act; provided that the standards for eligibility
10 and allowable costs for county indigent patients shall be no
11 more restrictive than the standards for eligibility and
12 allowable costs prior to December 31, 1992;

13 D. shall set criteria and cost limitations for
14 medical care in licensed out-of-state hospitals, ambulance
15 services or health care providers;

16 E. shall cooperate with appropriate state agencies
17 to use available funds efficiently and to make health care
18 more available;

19 F. shall cooperate with the department in making
20 ~~[any]~~ an investigation to determine the validity of claims
21 made upon the fund for any indigent patient;

22 G. may accept contributions or other county
23 revenues, which shall be deposited in the fund;

24 H. may hire personnel to carry out the provisions
25 of the Indigent Hospital and County Health Care Act;

I. shall review all claims presented by a
hospital, ambulance service or health care provider to

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1 determine compliance with the rules [~~and regulations~~] adopted
2 by the board or with the provisions of the Indigent Hospital
3 and County Health Care Act, determine whether the patient for
4 whom the claim is made is an indigent patient and determine
5 the allowable medical, ambulance service or health care
6 services costs; provided that the burden of proof of any
7 claim shall be upon the hospital, ambulance service or health
8 care provider;

9 J. shall state in writing the reason for rejecting
10 or disapproving any claim and shall notify the submitting
11 hospital, ambulance service or health care provider of the
12 decision within sixty days after eligibility for claim
13 payment has been determined;

14 K. shall pay all claims that are not matched with
15 federal funds under the state medicaid program and that have
16 been approved by the board from the fund and shall make
17 payment within thirty days after approval of a claim by the
18 board;

19 L. shall determine by county ordinance the types
20 of health care providers that will be eligible to submit
21 claims under the Indigent Hospital and County Health Care
22 Act;

23 M. shall review, verify and approve all medicaid
24 sole community provider hospital payment requests in
25 accordance with rules [~~and regulations~~] adopted by the board
prior to their submittal by the hospital to the department
for payment but no later than January 1 of each year;

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1 N. shall transfer to the state treasurer by the
2 last day of March, June, September and December of each year
3 an amount equal to one-fourth of the county's payment for
4 support of sole community provider payments as calculated by
5 the department for that county for the current fiscal year.
6 This money shall be deposited in the sole community provider
7 fund;

8 O. may provide for the transfer of money from the
9 county indigent hospital claims fund to the county-supported
10 medicaid fund to meet the requirements of the Statewide
11 Health Care Act; ~~[and]~~

12 P. may contract with ambulance providers,
13 hospitals or health care providers for the provision of
14 health care services; and

15 O. shall make transfers to the essential community
16 provider fund for the purposes of obtaining benefits pursuant
17 to the Health Care Access Act; provided that transfers made
18 pursuant to this subsection are in addition to, and not in
19 lieu of, the transfers made and required pursuant to
20 Subsections N and O of this section."

21 Section 8. Section 27-10-3 NMSA 1978 (being Laws 1991,
22 Chapter 212, Section 3, as amended) is amended to read:

23 "27-10-3. COUNTY-SUPPORTED MEDICAID FUND CREATED--USE--
24 APPROPRIATION BY THE LEGISLATURE.--

25 A. There is created in the state treasury the
"county-supported medicaid fund". The fund shall be invested
by the state treasurer as other state funds are invested.

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1 Income earned from investment of the fund shall be credited
2 to the county-supported medicaid fund. The fund shall not
3 revert in any fiscal year.

4 B. Money in the county-supported medicaid fund is
5 subject to appropriation by the legislature to support the
6 state medicaid program and the program for essential
7 community providers pursuant to the Health Care Access Act,
8 and to institute or support primary care health care services
9 and essential community provider programs pursuant to
10 Subsections D and E of Section 24-1A-3.1 NMSA 1978 and the
11 provisions of the Health Care Access Act. Of the amount
12 appropriated each year, nine percent shall be appropriated to
13 the department of health to institute or support primary care
14 health care services pursuant to Subsections D and E of
15 Section 24-1A-3.1 NMSA 1978.

16 C. Up to three percent of the county-supported
17 medicaid fund each year may be expended for administrative
18 costs related to medicaid or developing new primary care
19 health care centers or facilities.

20 D. In the event federal funds for medicaid are not
21 received by New Mexico for any eighteen-month period, the
22 unencumbered balance remaining in the county-supported
23 medicaid fund and the sole community provider fund at the end
24 of the fiscal year following the end of any eighteen-month
25 period shall be paid within a reasonable time to each county
for deposit in the county indigent hospital claims fund in
proportion to the payments made by each county through tax

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1 revenues or transfers in the previous fiscal year as
2 certified by the local government division of the department
3 of finance and administration. The department will provide
4 for budgeting and accounting of payments to the fund."
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