

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 165

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

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 county when
4 making transfers to the fund pursuant to the Indigent
5 Hospital and County Health Care Act; the department when
6 making transfers to the fund pursuant to the Rural Primary
7 Health Care Act; or a state institution;

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

9 C. "essential community provider" means a provider
10 that participates in the medicaid and medicare programs and
11 includes:

12 (1) a sole community hospital, a critical
13 access hospital, an essential access community hospital, a
14 sole provider hospital designated by the federal health care
15 finance authority and a hospital qualified to receive a
16 disproportionate share of medicaid or medicare payments;

17 (2) a federally qualified health center, a
18 federally designated rural health clinic, a nonprofit primary
19 care health clinic and a primary health care provider that is
20 the only provider in the community;

21 (3) a department facility; and

22 (4) the following providers if certified by
23 the department as an essential community provider based upon
24 a proven record of providing essential community health care
25 services:

 (a) a school health program that is
linked to an essential community provider;

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(b) a home health agency; and

(c) a behavioral health service agency;

D. "essential community provider network" means at least two or more essential community providers described in Paragraphs (1) through (3) of Subsection C of this section that, pursuant to a written agreement, join together for the purpose of obtaining funds and providing services pursuant to the provisions of the Health Care Access Act; and

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

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

A. The "essential community provider fund" is created in the state treasury. The fund shall consist of money transferred to the fund by contributing entities, money appropriated to the fund and money transferred to the fund by the human services department pursuant to law. Earnings of the fund shall be credited to the fund, and unexpended or unencumbered balances in the fund shall not revert.

Disbursements from the fund shall be made only by warrants issued by the department of finance and administration upon vouchers signed by the secretary of health. Money in the fund is appropriated to the department for the purposes of complying with the provisions of the Health Care Access Act.

B. Each fiscal year, by a deadline established by rule of the department, a contributing entity may transfer money to the fund for the purposes of obtaining services for

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

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

16 A. The department shall enter into agreements with
17 essential community providers, essential community provider
18 networks or participating local governments having contracts
19 with essential community providers to make payments from the
20 fund for health care services provided to the underserved.
21 In entering into the agreements, the parties shall
22 incorporate provisions that maintain an existing
23 infrastructure of the safety net for essential community
24 health services, reduce and avoid duplication of services,
25 promote preventive care and personal responsibility, improve
health status, access and continuity of care, establish
standards for eligibility and reimbursement and promote

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1 quality and efficiency in a health care delivery system.

2 Distributions from the fund shall be made pursuant to the
3 agreements; provided that:

4 (1) a contributing entity other than the
5 department shall receive payments from the fund in an amount
6 that is no less than two hundred percent of its contribution
7 to the fund and if that level of matching cannot be obtained,
8 then the contribution shall be refunded;

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

18 (3) no distributions shall be made from the
19 fund to supplant any general fund support for the medicaid
20 program.

21 B. The department shall promulgate rules that are
22 necessary to carry out the provisions of the Health Care
23 Access Act.

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

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

1 Act". "

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

4 "24-1A-3.1. DEPARTMENT--TECHNICAL AND FINANCIAL
5 ASSISTANCE.--To the extent funds are made available for the
6 purposes of the Rural Primary Health Care Act, the department
7 is authorized to:

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

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

13 C. provide for technical assistance to eligible
14 programs in the areas of administrative and financial
15 management, clinical services, outreach and planning;

16 D. provide for distribution of financial
17 assistance to eligible programs that have applied for and
18 demonstrated a need for assistance in order to sustain a
19 minimum level of delivery of primary health care services;

20 [~~and~~]

21 E. provide a program for enabling the development
22 of new primary care health care services or facilities, and
23 that program:

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

(2) may require in-kind support from local
communities where primary care health care services or

1 facilities are established;

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

5 (4) shall permit the implementation of
 6 innovative and creative uses of local or statewide health
 7 care resources, or both, other than those listed in
 8 Paragraphs (2) and (3) of this subsection; and

9 F. transfer appropriations made to implement the
 10 provisions of and to fulfill the purposes of the Rural
 11 Primary Health Care Act to the essential community provider
 12 fund pursuant to the Health Care Access Act for the purpose
 13 of matching available federal funds, but payments made from
 14 the amount resulting shall be made in strict compliance with
 15 the provisions of the Rural Primary Health Care Act.
 16 Payments from the fund pursuant to the provisions of the
 17 Rural Primary Health Care Act shall be in at least the same
 18 proportion as the transfers made by the department to the
 19 fund, but in no case shall the expenditures from the fund for
 20 the purposes of the Rural Primary Health Care Act be less
 21 than the transfer the department makes to the fund, plus any
 22 matching funds received as a result of the transfer."

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

25 "27-5-6. POWERS AND DUTIES OF THE BOARD.--The board:

A. shall administer claims pursuant to the
 provisions of the Indigent Hospital and County Health Care

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1 Act;

2 B. shall prepare and submit a budget to the board
3 of county commissioners for the amount needed to defray
4 claims made upon the fund and to pay costs of administration
5 of the Indigent Hospital and County Health Care Act and costs
6 of development of a countywide or multicounty health plan.

7 The combined costs of administration and planning shall in no
8 event exceed the following percentages of revenues based on
9 the previous fiscal year revenues for a fund that has existed
10 for at least one fiscal year or based on projected revenues
11 for the year being budgeted for a fund that has existed for
12 less than one fiscal year. The percentage of the revenues in
13 the fund that may be used for such combined administrative
14 and planning costs is equal to the sum of the following:

15 (1) ten percent of the amount of the
16 revenues in the fund not over five hundred thousand dollars
17 (\$500,000);

18 (2) eight percent of the amount of the
19 revenues in the fund over five hundred thousand dollars
20 (\$500,000) but not over one million dollars (\$1,000,000); and

21 (3) four and one-half percent of the amount
22 of the revenues in the fund over one million dollars
23 (\$1,000,000);

24 C. shall make rules [~~and regulations~~] necessary to
25 carry out the provisions of the Indigent Hospital and County
Health Care Act; provided that the standards for eligibility
and allowable costs for county indigent patients shall be no

1 more restrictive than the standards for eligibility and
 2 allowable costs prior to December 31, 1992;

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

6 E. shall cooperate with appropriate state agencies
 7 to use available funds efficiently and to make health care
 8 more available;

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

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

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

16 I. shall review all claims presented by a
 17 hospital, ambulance service or health care provider to
 18 determine compliance with the rules [~~and regulations~~]
 19 by the board or with the provisions of the Indigent Hospital
 20 and County Health Care Act, determine whether the patient for
 21 whom the claim is made is an indigent patient and determine
 22 the allowable medical, ambulance service or health care
 23 services costs; provided that the burden of proof of any
 24 claim shall be upon the hospital, ambulance service or health
 25 care provider;

J. shall state in writing the reason for rejecting
 or disapproving any claim and shall notify the submitting

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1 hospital, ambulance service or health care provider of the
2 decision within sixty days after eligibility for claim
3 payment has been determined;

4 K. shall pay all claims that are not matched with
5 federal funds under the state medicaid program and that have
6 been approved by the board from the fund and shall make
7 payment within thirty days after approval of a claim by the
8 board;

9 L. shall determine by county ordinance the types
10 of health care providers that will be eligible to submit
11 claims under the Indigent Hospital and County Health Care
12 Act;

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

18 N. shall transfer to the state treasurer by the
19 last day of March, June, September and December of each year
20 an amount equal to one-fourth of the county's payment for
21 support of sole community provider payments as calculated by
22 the department for that county for the current fiscal year.
23 This money shall be deposited in the sole community provider
24 fund;

25 O. may provide for the transfer of money from the
county indigent hospital claims fund to the county-supported
medicaid fund to meet the requirements of the Statewide

1 Health Care Act; [~~and~~]

2 P. may contract with ambulance providers,
3 hospitals or health care providers for the provision of
4 health care services; and

5 Q. may make transfers to the essential community
6 provider fund for the purposes of obtaining benefits pursuant
7 to the Health Care Access Act; provided that transfers made
8 pursuant to this subsection are in addition to, and not in
9 lieu of, the transfers made and required pursuant to
10 Subsections N and O of this section."

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