

AN ACT

RELATING TO HEALTH CARE; IMPOSING CERTAIN REQUIREMENTS ON  
MEDICAID PROVIDERS TO ENSURE FAIR AND NONDISCRIMINATORY  
PRACTICES IN RELATIONSHIPS WITH HEALTH CARE PROFESSIONALS IN  
THE MEDICAID PROGRAM; AMENDING AND ENACTING SECTIONS OF THE  
NMSA 1978.

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

Section 1. Section 27-2-12.3 NMSA 1978 (being Laws  
1987, Chapter 269, Section 1, as amended) is amended to read:

"27-2-12.3. MEDICAID REIMBURSEMENT-- EQUAL PAY FOR  
EQUAL PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND  
PSYCHOLOGISTS' SERVICES. --

A. The human services department shall establish  
rates for the reimbursement of physicians, dentists,  
optometrists, podiatrists, chiropractors, and psychologists  
for services rendered to medicaid patients that are not in  
the managed care system. The rates shall provide equal  
reimbursement for the same or similar services rendered  
without respect to the date on which the physician, dentist,  
optometrist, podiatrist or psychologist entered into practice  
in New Mexico, the date on which the physician, dentist,  
optometrist, podiatrist or psychologist entered into an  
agreement or contract to provide services or the location in  
which services are to be provided in the state.

B. For services rendered to medicaid patients in the medicaid managed care system, the provisions of Section 27-11-6 NMSA 1978 shall apply. "

Section 2. Section 27-11-1 NMSA 1978 (being Laws 1998, Chapter 30, Section 1) is amended to read:

"27-11-1. SHORT TITLE. -- Chapter 27, Article 11 NMSA 1978 may be cited as the "Medicaid Provider Act". "

Section 3. Section 27-11-2 NMSA 1978 (being Laws 1998, Chapter 30, Section 2) is amended to read:

"27-11-2. DEFINITIONS. -- As used in the Medicaid Provider Act:

A. "department" means the human services department;

B. "health care professional" means a physician or other health care practitioner who is licensed, certified or otherwise authorized by the state to provide health care services consistent with state law;

C. "managed care organization" means a person eligible to enter into risk-based prepaid capitation agreements with the department to provide health care and related services;

D. "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

E. "medicaid provider" means a person, including a managed care organization, operating under contract with the department to provide medicaid-related services to recipients;

F. "person" means an individual or other legal entity;

G. "recipient" means a person whom the department has determined to be eligible to receive medicaid-related services;

H. "secretary" means the secretary of human services; and

I. "subcontractor" means a person who contracts with a medicaid provider to provide medicaid-related services to recipients. "

Section 4. A new section of the Medicaid Provider Act, Section 27-11-6 NMSA 1978, is enacted to read:

"27-11-6. FAIR AND NONDISCRIMINATORY PRACTICES  
REQUIRED OF MEDICAID PROVIDERS--REMEDIES FOR VIOLATIONS.--

A. In its provision of services to medicaid patients, a medicaid provider:

(1) shall not refuse to renew a contract with a health care professional if requested by the health care professional unless the medicaid provider can demonstrate by a preponderance of the evidence that good cause exists for the refusal;

(2) shall establish and implement rates of reimbursement for services rendered to medicaid patients that provide equal reimbursement for the same or similar services rendered without respect to the date on which the health care professional entered into practice in New Mexico, the date on which the health care professional entered into a contract to provide the services or the location in which the services are to be provided in the state; and

(3) shall not discriminate against a contract health care professional based on the race, ethnicity, gender, religious beliefs or sexual orientation of the health care professional.

B. A health care professional that is damaged by a medicaid provider's failure to comply with provisions of Paragraph (1), (2) or (3) of Subsection A of this section has a civil right of action against the provider for damages, and if the health care professional prevails in a suit brought pursuant to this subsection may be awarded:

(1) compensatory damages;

(2) punitive damages in an amount at least three times the award of compensatory damages if the medicaid provider's failure to comply was intentional;

(3) a reasonable attorney fee; and

(4) costs and expenses incurred in

prosecuting the action. "\_\_\_\_\_

