

1 SENATE BILL 258

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Phil A. Griego

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9  
10 AN ACT

11 RELATING TO SOLE COMMUNITY PROVIDER FUNDING; PROVIDING THAT  
12 CERTIFIED PUBLIC EXPENDITURES MAY BE COUNTED IN THE COUNTY  
13 CONTRIBUTION FOR SUPPORT OF SOLE COMMUNITY PROVIDER PAYMENTS;  
14 DECLARING AN EMERGENCY.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 27-5-4 NMSA 1978 (being Laws 1965,  
18 Chapter 234, Section 4, as amended) is amended to read:

19 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital  
20 and County Health Care Act:

21 A. "alcohol rehabilitation center" means an agency  
22 of local government, a state agency, a private nonprofit entity  
23 or combination thereof that operates alcohol abuse  
24 rehabilitation programs that meet the standards set by the  
25 department of health;

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1           [A.] B. "ambulance provider" or "ambulance service"  
2 means a specialized carrier based within the state authorized  
3 under provisions and subject to limitations as provided in  
4 individual carrier certificates issued by the public regulation  
5 commission to transport persons alive, dead or dying en route  
6 by means of ambulance service. The rates and charges  
7 established by public regulation commission tariff shall govern  
8 as to allowable cost. Also included are air ambulance services  
9 approved by the board. The air ambulance service charges shall  
10 be filed and approved pursuant to Subsection D of Section  
11 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

12           [B.] C. "board" means a county indigent hospital  
13 and county health care board;

14           ~~[G.] "indigent patient" means a person to whom an~~  
15 ~~ambulance service, a hospital or a health care provider has~~  
16 ~~provided medical care, ambulance transportation or health care~~  
17 ~~services and who can normally support himself and his~~  
18 ~~dependents on present income and liquid assets available to him~~  
19 ~~but, taking into consideration this income and those assets and~~  
20 ~~his requirement for other necessities of life for himself and~~  
21 ~~his dependents, is unable to pay the cost of the ambulance~~  
22 ~~transportation or medical care administered or both. If~~  
23 ~~provided by resolution of a board, it shall not include any~~  
24 ~~person whose annual income together with his spouse's annual~~  
25 ~~income totals an amount that is fifty percent greater than the~~

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1 ~~per capita personal income for New Mexico as shown for the most~~  
2 ~~recent year available in the survey of current business~~  
3 ~~published by the United States department of commerce. Every~~  
4 ~~board that has a balance remaining in the fund at the end of a~~  
5 ~~given fiscal year shall consider and may adopt at the first~~  
6 ~~meeting of the succeeding fiscal year a resolution increasing~~  
7 ~~the standard for indigency. The term "indigent patient"~~  
8 ~~includes a minor who has received ambulance transportation or~~  
9 ~~medical care or both and whose parent or the person having~~  
10 ~~custody of that minor would qualify as an indigent patient if~~  
11 ~~transported by ambulance, admitted to a hospital for care or~~  
12 ~~treated by a health care provider;~~

13 ~~D. "hospital" means a general or limited hospital~~  
14 ~~licensed by the department of health, whether nonprofit or~~  
15 ~~owned by a political subdivision, and may include by resolution~~  
16 ~~of a board the following health facilities if licensed or, in~~  
17 ~~the case of out-of-state hospitals, approved by the department~~  
18 ~~of health:~~

19 ~~(1) for-profit hospitals;~~  
20 ~~(2) state-owned hospitals; or~~  
21 ~~(3) licensed out-of-state hospitals where~~  
22 ~~treatment provided is necessary for the proper care of an~~  
23 ~~indigent patient when that care is not available in an~~  
24 ~~in-state hospital;]~~

25 D. "certified public expenditure" means an

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1 expenditure made by a public entity that the state can certify  
2 as an allowable medicaid expense;

3 E. "commission" means the New Mexico health policy  
4 commission or the commission's successor agency;

5 ~~[E.]~~ F. "cost" means all allowable costs of  
6 providing health care services, to the extent determined by  
7 resolution of a board, for an indigent patient. Allowable  
8 costs shall be based on medicaid fee-for-service reimbursement  
9 rates for hospitals, licensed medical doctors and osteopathic  
10 physicians;

11 ~~[F.]~~ F. ~~"fund" means a county indigent hospital claims~~  
12 ~~fund;~~

13 ~~G.~~ ~~"medicaid eligible" means a person who is~~  
14 ~~eligible for medical assistance from the department;~~

15 ~~H.]~~ G. "county" means a county except a class A  
16 county with a county hospital operated and maintained pursuant  
17 to a lease with a state educational institution named in  
18 Article 12, Section 11 of the constitution of New Mexico;

19 ~~[H.]~~ H. "department" means the human services  
20 department;

21 ~~[J.]~~ ~~"sole community provider hospital" means:~~  
22 ~~(1) a hospital that is a sole community~~  
23 ~~provider hospital under the provisions of the federal medicare~~  
24 ~~guidelines; or~~

25 ~~(2) an acute care general hospital licensed by~~

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1 ~~the department of health that is qualified, pursuant to rules~~  
2 ~~adopted by the state agency primarily responsible for the~~  
3 ~~medicaid program, to receive distributions from the sole~~  
4 ~~community provider fund;~~

5 ~~K.]~~ I. "drug rehabilitation center" means an agency  
6 of local government, a state agency, a private nonprofit entity  
7 or combination thereof that operates drug abuse rehabilitation  
8 programs that meet the standards and requirements set by the  
9 department of health;

10 ~~[L. "alcohol rehabilitation center" means an agency~~  
11 ~~of local government, a state agency, a private nonprofit entity~~  
12 ~~or combination thereof that operates alcohol abuse~~  
13 ~~rehabilitation programs that meet the standards set by the~~  
14 ~~department of health;~~

15 ~~M. "mental health center" means a not-for-profit~~  
16 ~~center that provides outpatient mental health services that~~  
17 ~~meet the standards set by the department of health;]~~

18 J. "fund" means a county indigent hospital claims  
19 fund;

20 ~~[N.]~~ K. "health care provider" means:

- 21 (1) a nursing home;  
22 (2) an in-state home health agency;  
23 (3) an in-state licensed hospice;  
24 (4) a community-based health program operated  
25 by a political subdivision of the state or other nonprofit

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1 health organization that provides prenatal care delivered by  
2 New Mexico licensed, certified or registered health care  
3 practitioners;

4 (5) a community-based health program operated  
5 by a political subdivision of the state or other nonprofit  
6 health care organization that provides primary care delivered  
7 by New Mexico licensed, certified or registered health care  
8 practitioners;

9 (6) a drug rehabilitation center;

10 (7) an alcohol rehabilitation center;

11 (8) a mental health center;

12 (9) a licensed medical doctor, osteopathic  
13 physician, dentist, optometrist or expanded practice nurse when  
14 providing emergency services, as determined by the board, in a  
15 hospital to an indigent patient; or

16 (10) a licensed medical doctor or osteopathic  
17 physician, dentist, optometrist or expanded practice nurse when  
18 providing services in an outpatient setting, as determined by  
19 the board, to an indigent patient with a life-threatening  
20 illness or disability;

21 [θ-] L. "health care services" means treatment and  
22 services designed to promote improved health in the county  
23 indigent population, including primary care, prenatal care,  
24 dental care, provision of prescription drugs, preventive care  
25 or health outreach services, to the extent determined by

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1 resolution of the board;

2 M. "hospital" means a general or limited hospital  
3 licensed by the department of health, whether nonprofit or  
4 owned by a political subdivision, and may include by resolution  
5 of a board the following health facilities if licensed or, in  
6 the case of out-of-state hospitals, approved by the department  
7 of health:

8 (1) for-profit hospitals;

9 (2) state-owned hospitals; or

10 (3) licensed out-of-state hospitals where  
11 treatment provided is necessary for the proper care of an  
12 indigent patient when that care is not available in an in-state  
13 hospital;

14 N. "indigent patient" means a person to whom an  
15 ambulance service, a hospital or a health care provider has  
16 provided medical care, ambulance transportation or health care  
17 services and who can normally support the person's self and the  
18 person's dependents on present income and liquid assets  
19 available to the person but, taking into consideration the  
20 person's income, assets and requirements for other necessities  
21 of life for the person and the person's dependents, is unable  
22 to pay the cost of the ambulance transportation or medical care  
23 administered or both; provided that if the definition of  
24 "indigent patient" is adopted by a board in a resolution, the  
25 definition shall not include any person whose annual income

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1 together with that person's spouse's annual income totals an  
2 amount that is fifty percent greater than the per capita  
3 personal income for New Mexico as shown for the most recent  
4 year available in the survey of current business published by  
5 the United States department of commerce. Every board that has  
6 a balance remaining in the fund at the end of a given fiscal  
7 year shall consider and may adopt at the first meeting of the  
8 succeeding fiscal year a resolution increasing the standard for  
9 indigency; "indigent patient" includes a minor who has received  
10 ambulance transportation or medical care or both and whose  
11 parent or the person having custody of that minor would qualify  
12 as an indigent patient if transported by ambulance, admitted to  
13 a hospital for care or treated by a health care provider;

14 O. "medicaid eligible" means a person who is  
15 eligible for medical assistance from the department;

16 P. "mental health center" means a not-for-profit  
17 center that provides outpatient mental health services that  
18 meet the standards set by the department of health;

19 ~~[P-]~~ Q. "planning" means the development of a  
20 countywide or multicounty health plan to improve and fund  
21 health services in the county based on the county's needs  
22 assessment and inventory of existing services and resources and  
23 that demonstrates coordination between the county and state and  
24 local health planning efforts; ~~and~~

25 ~~Q. "commission" means the New Mexico health policy~~

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1 ~~commission]~~

2 R. "public entity" means a state, local or tribal  
3 government or other political subdivision or agency of that  
4 government;

5 S. "sole community provider hospital" means:

6 (1) a hospital that is a sole community  
7 provider hospital under the provisions of the federal medicare  
8 guidelines; or

9 (2) an acute care general hospital licensed by  
10 the department of health that is qualified, pursuant to rules  
11 adopted by the state agency primarily responsible for the  
12 medicaid program, to receive distributions from the sole  
13 community provider fund; and

14 T. "tribal" means of or pertaining to a federally  
15 recognized Indian nation, tribe or pueblo."

16 SECTION 2. Section 27-5-6.1 NMSA 1978 (being Laws 1993,  
17 Chapter 321, Section 18) is amended to read:

18 "27-5-6.1. SOLE COMMUNITY PROVIDER FUND CREATED.--

19 A. The "sole community provider fund" is created in  
20 the state treasury. The sole community provider fund, which  
21 shall be administered by the [~~human services~~] department, shall  
22 consist of certified public expenditures as determined by the  
23 department and funds provided by counties or other public  
24 entities to match federal funds for medicaid sole community  
25 provider hospital payments. Money in the fund shall be

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1 invested by the state treasurer as other state funds are  
2 invested. Any unexpended or unencumbered balance remaining in  
3 the fund at the end of any fiscal year shall not revert.

4 B. Money in the sole community provider fund is  
5 appropriated to the [~~human services~~] department to make sole  
6 community provider hospital payments pursuant to the state  
7 medicaid program. No sole community provider hospital payments  
8 or money in the sole community provider fund shall be used to  
9 supplant any general fund support for the state medicaid  
10 program.

11 C. Money in the sole community provider fund shall  
12 be remitted back to the individual counties from which it came  
13 if federal medicaid matching funds are not received for  
14 medicaid sole community provider hospital payments."

15 SECTION 3. Section 27-5-12.2 NMSA 1978 (being Laws 1993,  
16 Chapter 321, Section 15, as amended) is amended to read:

17 "27-5-12.2. DUTIES OF THE COUNTY--SOLE COMMUNITY PROVIDER  
18 HOSPITAL PAYMENTS.--A county that authorizes payment for  
19 services to a sole community provider hospital shall:

20 A. determine eligibility for benefits and determine  
21 an amount payable on each claim for services to indigent  
22 patients from sole community provider hospitals;

23 B. notify the sole community provider hospital of  
24 its decision on each request for payment while not actually  
25 reimbursing the hospital for the services that are reimbursed

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1 with federal funds under the state medicaid program;

2 C. confirm the amount of the sole community  
3 provider hospital payments authorized for each hospital for the  
4 past fiscal year by September 30 of the current fiscal year  
5 based on a report prepared by the hospital using a format  
6 jointly prescribed by the counties and hospitals that provides  
7 aggregate data, including the number of indigent patients  
8 served and the total cost of uncompensated care provided by the  
9 hospital;

10 D. negotiate agreements with each sole community  
11 provider hospital providing services for county residents on  
12 the anticipated amount of the payments for the following fiscal  
13 year; provided that the agreements shall be in compliance with  
14 federal regulations regarding intergovernmental transfers and  
15 provider contributions and shall not include provisions for  
16 reimbursements to counties of matching and sole community  
17 provider fund allocations; and

18 E. provide the department by January 15 of each  
19 year, or on a date determined by the secretary of human  
20 services and provided to each county by January 15 of each  
21 year, with the budgeted amount of sole community provider  
22 hospital payments, by hospital, for the following fiscal  
23 year."

24 SECTION 4. REPEAL.--Section 27-5-4.1 NMSA 1978 (being  
25 Laws 1978, Chapter 123, Section 2) is repealed.

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SECTION 5. EMERGENCY.--It is necessary for the public  
peace, health and safety that this act take effect  
immediately.