

1 SENATE BILL 103

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH CARE; REQUIRING ENTITIES PARTICIPATING IN
12 MEDICAID PERSONAL CARE SERVICES PROGRAMS TO REPORT TO THE
13 HEALTH CARE AUTHORITY ON THE STATUS OF THE DIRECT CARE
14 WORKFORCE; REQUIRING THE HEALTH CARE AUTHORITY TO DEVELOP
15 REPORTS ON THE DIRECT CARE WORKFORCE.

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

18 SECTION 1. [NEW MATERIAL] DIRECT CARE WORKFORCE REPORTING
19 REQUIREMENTS--HEALTH CARE AUTHORITY DUTIES.--

20 A. As used in this section:

21 (1) "agency-based community benefit" means the
22 personal care services program provided to eligible medicaid
23 recipients who do not wish to self-direct their community
24 benefit services;

25 (2) "authority" means the health care

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1 authority;

2 (3) "direct care worker" means a non-
3 administrative employee who spends the majority of working
4 hours providing personal care services to eligible medicaid
5 recipients;

6 (4) "eligible medicaid recipient" means a
7 person whom the authority has determined to be eligible to
8 receive medicaid-related personal care services either through
9 the agency-based community benefit program or the self-directed
10 community benefit program;

11 (5) "financial management agency" means an
12 entity that contracts with a medicaid managed care organization
13 to provide the fiscal administration functions for eligible
14 medicaid recipients participating in the self-directed
15 community benefit program;

16 (6) "personal care service provider agency"
17 means an entity that:

18 (a) has entered into a medicaid provider
19 participation agreement with the authority and: 1) is
20 contracted with a medicaid managed care organization to provide
21 personal care services to eligible medicaid recipients; or 2)
22 provides personal care services to eligible medicaid recipients
23 through fee-for-service arrangement;

24 (b) is reimbursed for personal care
25 services provided to eligible medicaid recipients; and

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1 (c) employs direct care workers to
2 provide personal care services to eligible medicaid recipients;

3 (7) "personal care services" means services
4 provided to an eligible medicaid recipient to assist the
5 eligible medicaid recipient with the instrumental activities of
6 daily living; and

7 (8) "self-directed community benefit" means
8 the personal care services program provided to eligible
9 medicaid recipients who choose to self-direct their community
10 benefit services.

11 B. By March 1, 2026, and annually thereafter, each
12 personal care service provider agency shall, in a form and
13 manner prescribed by the authority, submit data on the direct
14 care workers providing agency-based community benefits at the
15 personal care service provider agency. The data shall include
16 information on the:

17 (1) total number of:

18 (a) full-time direct care workers
19 employed by the personal care service provider agency;

20 (b) part-time direct care workers
21 employed by the personal care service provider agency;

22 (c) direct care workers who are
23 independent contractors contracted with the personal care
24 service provider agency;

25 (d) direct care workers who have ceased

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1 providing personal care services for the personal care service
2 provider agency in the previous twelve months;

3 (e) vacant full-time and part-time
4 direct care worker positions as of the end of the previous
5 calendar year; and

6 (f) hours of overtime pay received by
7 each direct care worker;

8 (2) percentage of the previous calendar year
9 that each direct care worker was employed at the personal care
10 service provider agency, either as an employee or independent
11 contractor;

12 (3) total length of employment for each
13 employee as of the end of the previous calendar year;

14 (4) hourly wage paid to each direct care
15 worker during the previous calendar year;

16 (5) total amount of money paid to direct care
17 workers for travel in the previous twelve months;

18 (6) availability of fringe benefits for direct
19 care workers employed at the personal care service provider
20 agency. Data on fringe benefits shall include the number and
21 percentage of full-time and part-time employees that receive:

22 (a) health insurance;

23 (b) dental insurance;

24 (c) vision insurance;

25 (d) life insurance;

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- 1 (e) disability insurance;
- 2 (f) tuition reimbursement;
- 3 (g) retirement benefits;
- 4 (h) paid leave other than sick leave;

5 and

- 6 (i) any other type of fringe benefit
- 7 that the personal care service provider agency offers;

8 (7) other expenditures paid by personal care
9 service provider agencies related to direct care workers,
10 including:

- 11 (a) training for direct care workers;
- 12 (b) discretionary travel benefits; and
- 13 (c) personal protective equipment; and

14 (8) demographics of the direct care workers
15 employed by the personal care service provider agency,
16 including each direct care worker's:

- 17 (a) age;
- 18 (b) gender;
- 19 (c) race and ethnicity;
- 20 (d) highest educational level attained;
- 21 (e) certifications; and
- 22 (f) duration of direct care work

23 experience.

24 C. By March 1, 2026, and annually thereafter, each
25 medicaid managed care organization and financial management

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1 agency shall, in a form and manner prescribed by the authority,
2 submit data on the direct care workers providing self-directed
3 community benefits. The data shall include information on the:

4 (1) total number of:

5 (a) full-time direct care workers
6 providing personal care services through the self-directed
7 community benefit program;

8 (b) part-time direct care workers
9 providing personal care services through the self-directed
10 community benefit program;

11 (c) direct care workers who are
12 independent contractors contracted to provide personal care
13 services through the self-directed community benefit program;

14 (d) direct care workers who have ceased
15 providing personal care services through the self-directed
16 community benefit program in the previous twelve months; and

17 (e) hours of overtime pay received by
18 each direct care worker providing personal care services
19 through the self-directed community benefit program;

20 (2) percentage of the previous calendar year
21 that each direct care worker was employed at the provider
22 agency, either as an employee or independent contractor;

23 (3) hourly wage paid to each direct care
24 worker during the previous calendar year; and

25 (4) demographics of the direct care workers

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1 providing personal care services through the self-directed
2 community benefit program, including each direct care worker's:

- 3 (a) age;
- 4 (b) gender;
- 5 (c) race and ethnicity;
- 6 (d) highest educational level attained;
- 7 (e) certifications; and
- 8 (f) duration of direct care work
9 experience.

10 D. By July 1, 2026, and annually thereafter, the
11 authority shall review and analyze the data submitted pursuant
12 to this section and shall submit a report on the data to the
13 interim legislative health and human services committee, the
14 legislative finance committee, the governor and the interested
15 parties advisory group established pursuant to this section.

16 E. By January 1, 2030, the authority shall perform
17 a study for the purposes of determining the cost of providing
18 personal care services and recommending the reimbursement rates
19 to be paid for personal care services. The results of the
20 study shall be provided to the interim legislative health and
21 human services committee, the legislative finance committee,
22 the governor and the interested parties advisory group
23 established pursuant to this section. The study shall consider
24 federal requirements related to payment adequacy and the level
25 of reimbursement required to:

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- 1 (1) stabilize the direct care workforce;
2 (2) reduce direct care workforce vacancies;
3 (3) allow direct care workers to receive an
4 hourly wage of at least one hundred fifty percent of the state
5 minimum wage; and
6 (4) ensure adequate access to personal care
7 services for eligible medicaid recipients.

8 F. The authority shall establish an interested
9 parties advisory group that meets at least every two years to
10 advise and provide recommendations to the authority on
11 reimbursement rates for personal care, home health aide,
12 homemaker and habilitation services. The authority shall
13 publish the advisory group's recommendations on the authority's
14 website. The advisory group shall consist of persons who have
15 an interest in the payment rates, including:

- 16 (1) direct care workers;
17 (2) eligible medicaid recipients or the
18 eligible medicaid recipients' authorized representatives; and
19 (3) authority staff.