

AN ACT
RELATING TO DISABILITIES; PROVIDING FOR CONSUMER DIRECTION
OF PERSONAL CARE SERVICES IN CERTAIN PUBLICLY FUNDED
PROGRAMS.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Consumer Direction Act".

Section 2. PURPOSE.--The purpose of the Consumer
Direction Act is to ensure a consumer the right to direct
his personal care services if he so chooses by selecting an
attendant appropriate to his needs and to maximize personal
care service availability and satisfaction.

Section 3. DEFINITIONS.--As used in the Consumer
Direction Act:

A. "attendant" means a person, including an
allowable family member, who provides personal care
services;

B. "consumer" means a person receiving personal
care services through the medicaid personal care option
program under the human services department or the medicaid
disabled and elderly waiver program under the department of
health;

C. "department" means the department of health or
the human services department, as the context requires;

D. "fiscal intermediary" means a person selected
by agreement between the consumer and the department under
contract to the department to assist the consumer to perform
certain employment functions, including payroll
responsibilities for the attendant and filing necessary

eligibility information with the department;

E. "personal assistance services" means a prescribed course of regular personal care, including hygiene, mobility and daily living assistance that permits a person to live in his home rather than an institution, including bathing, dressing, grooming, eating, toileting, shopping, transporting and communicating;

F. "plan" means a written agreement between a consumer and the department for the provision of personal care services; and

G. "surrogate" means a family member, legal guardian or other person approved by the consumer and identified in the personal care services plan to assist in direction of personal care services and choice of attendant.

Section 4. CONSUMER DIRECTION PROGRAMS AUTHORIZED.-- Consistent with the federal Social Security Act and subject to the appropriation and availability of federal and state funds, the department shall by rule provide, pursuant to the medicaid personal care option program or the medicaid disabled and elderly waiver program respectively, a program permitting a consumer or surrogate to direct personal care services through the hiring of an attendant or attendants paid through a fiscal intermediary under contract with the department.

Section 5. DEPARTMENT DUTIES.--The department shall:

A. establish by rule criteria and procedures for developing and amending a personal care services plan with a consumer;

B. develop criteria and procedures for selection of a fiscal intermediary to contract with the department to

provide fiscal intermediary services to a consumer; and

C. establish rates for reimbursement of an attendant providing personal care services to a consumer and for the compensation of a fiscal intermediary.

Section 6. REPORT.--Annually by October 1, each department shall deliver a report to the legislative finance committee on services provided pursuant to the Consumer Direction Act and a comparison of those services and services provided by the department through other means and an evaluation of the effectiveness and consumer satisfaction with the respective means of service delivery.

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1999. _____