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AN ACT
RELATING TO PUBLIC FINANCE; AMENDING THE ACCOUNTS FOR PERSONS
WITH DISABILITIES ACT TO EXPAND ELIGIBILITY FOR AN ACCOUNT;
REPEALING AND REENACTING SECTION 6-8A-6 NMSA 1978 (BEING LAWS
2016, CHAPTER 40, SECTION 6) TO CREATE AN EXEMPTION FROM
MEDICAID RECOVERY.

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

SECTION 1. Section 6-8A-2 NMSA 1978 (being Laws 2016,
Chapter 40, Section 2) is amended to read:

"6-8A-2. DEFINITIONS.--As used in the Accounts for
Persons with Disabilities Act:

A. "account" means an individual tax-free savings
account for a designated beneficiary that is established
pursuant to Section 529A of the Internal Revenue Code of
1986, as amended;

B. "account owner" means a person who establishes
and owns an account under the Accounts for Persons with
Disabilities Act and who is one of the following:

(1) the designated beneficiary of the
account;

(2) the parent, guardian or conservator of a
minor designated beneficiary; or

(3) the conservator of a designated
beneficiary otherwise incapable of handling such

1 beneficiary's financial affairs;

2 C. "designated beneficiary" means a person for
3 whom an account is established under the Accounts for Persons
4 with Disabilities Act;

5 D. "disability certification" means a
6 certification deemed sufficient by the United States
7 secretary of the treasury to establish a certain level of
8 physical or mental impairment that meets the requirements of
9 Section 529A of the Internal Revenue Code of 1986, as
10 amended;

11 E. "eligible person" means, for a taxable year, a
12 person who is either:

13 (1) entitled during that taxable year to
14 benefits based on blindness or disability under Title 2 or
15 Title 16 of the federal Social Security Act; provided that
16 such blindness or disability occurred before the date on
17 which the individual attained age forty-six; or

18 (2) the subject of a disability
19 certification filed with the United States secretary of the
20 treasury;

21 F. "family member" means a sibling, whether by
22 blood or adoption, including a brother, sister, stepbrother,
23 stepsister, half-brother or half-sister;

24 G. "fiduciary" means a person authorized to do
25 business in New Mexico and acting as a fiduciary to manage

1 and invest an account; provided that such person is bonded
2 and is not the parent, guardian or conservator of the
3 designated beneficiary of the account;

4 H. "financial organization" means an organization
5 that is authorized to do business in New Mexico and is:

6 (1) licensed or chartered by the office of
7 superintendent of insurance;

8 (2) licensed or chartered by the financial
9 institutions division of the regulation and licensing
10 department; or

11 (3) subject to the jurisdiction of the
12 federal securities and exchange commission;

13 I. "office" means the office of the state
14 treasurer;

15 J. "qualified disability expenses" means any
16 expenses, related to the designated beneficiary's blindness
17 or disability, that include the following:

18 (1) education;

19 (2) housing;

20 (3) transportation;

21 (4) employment training and support;

22 (5) assistive technology and personal
23 support services;

24 (6) health, prevention and wellness;

25 (7) financial management and administrative

1 services;

2 (8) legal fees;

3 (9) expenses for oversight and monitoring;

4 (10) funeral and burial expenses; and

5 (11) other expenses approved by the United

6 States secretary of the treasury; and

7 K. "qualified program" means a program established
8 and maintained by the state or an agency or instrumentality
9 of the state pursuant to 26 U.S.C. Section 529A."

10 SECTION 2. Section 6-8A-6 NMSA 1978 (being Laws 2016,
11 Chapter 40, Section 6) is repealed and a new Section 6-8A-6
12 NMSA 1978 is enacted to read:

13 "6-8A-6. LIMITATION ON MEDICAID PAYBACK.--Unless
14 required by federal law, the state or an agency or
15 instrumentality of the state shall not:

16 A. seek payment from an account or its proceeds
17 for benefits provided to the beneficiary of the account
18 pursuant to 26 U.S.C. Section 529A; or

19 B. undertake estate recovery from an account
20 pursuant to 26 U.S.C. Section 529A."

21 SECTION 3. EFFECTIVE DATES.--

22 A. The effective date of the provisions of Section
23 1 of this act is January 1, 2026.

24 B. The effective date of the provisions of Section
25 2 of this act is July 1, 2024.