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HOUSE BILL 323

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

INTRODUCED BY

Thomas C. Taylor

AN ACT

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

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

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

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

A. "alcohol rehabilitation center" means an agency
of local government, a state agency, a private nonprofit entity
or combination thereof that operates alcohol abuse
rehabilitation programs that meet the standards set by the
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.~~] ~~"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.