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HOUSE BILL 217

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Daymon Ely and Nate Gentry

AN ACT

RELATING TO PUBLIC SAFETY; AMENDING A SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO PROVIDE INFORMATION TECHNOLOGY RESOURCES AND TECHNICAL SUPPORT TO COUNTIES THAT REQUEST MEDICAID ENROLLMENT ASSISTANCE; REQUIRING CORRECTIONAL FACILITIES TO IMPLEMENT AN INMATE RECIDIVISM REDUCTION TRANSITION PROGRAM TO PROVIDE UPON RELEASE CERTAIN INMATES WITH SUPPORTS AND SERVICES DESIGNED TO REDUCE RECIDIVISM.

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

SECTION 1. Section 27-2-12.22 NMSA 1978 (being Laws 2015, Chapter 127, Section 2) is amended to read:

"27-2-12.22. INCARCERATED INDIVIDUALS--MEDICAID ELIGIBILITY--COUNTY JAIL INFORMATION TECHNOLOGY AND TECHNICAL ASSISTANCE.--

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1 A. Incarceration shall not be a basis to deny or
2 terminate eligibility for medicaid.

3 B. Upon release from incarceration, a formerly
4 incarcerated individual shall remain eligible for medicaid
5 until the individual is determined to be ineligible for
6 medicaid on grounds other than incarceration.

7 C. An incarcerated individual who was not enrolled
8 in medicaid upon the date that the individual became
9 incarcerated shall be permitted to submit an application for
10 medicaid during the incarcerated individual's period of
11 incarceration.

12 D. The provisions of this section shall not be
13 construed to abrogate:

14 (1) any deadline that governs the processing
15 of applications for medicaid pursuant to existing federal or
16 state law; or

17 (2) requirements under federal or state law
18 that the human services department be notified of changes in
19 income, resources, residency or household composition.

20 E. The provisions of this section shall not require
21 the human services department to pay for services on behalf of
22 any incarcerated individual, except as permitted by federal
23 law.

24 F. A correctional facility shall:

25 (1) inform the human services department when

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1 an eligible individual is incarcerated; ~~[and shall notify the~~
2 ~~department upon that eligible individual's release]~~

3 (2) assist the department and department
4 contractors in gaining access to incarcerated individuals to
5 make eligibility determinations and enroll eligible individuals
6 in medicaid during the incarcerated individuals' incarceration
7 or upon release;

8 (3) notify the department upon an eligible
9 individual's release; and

10 (4) facilitate the department's or any
11 department contractor's provision of case management and
12 evidence-based behavioral health services pursuant to the
13 provisions of Section 2 of this 2018 act.

14 G. Upon the written request of a county, the
15 department shall provide a behavioral health screening tool to
16 facilitate screenings performed in accordance with the
17 provisions of Subsection A of Section 2 of this 2018 act,
18 information technology and technical assistance to a county
19 jail in order to implement the provisions of this section.

20 ~~[G.]~~ H. The secretary of human services shall adopt
21 and promulgate rules consistent with this section.

22 ~~[H.]~~ I. As used in this section:

23 (1) "eligibility" means a finding by the human
24 services department that an individual has met the criteria
25 established in state and federal law and the requirements

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1 established by department rules to enroll in medicaid;

2 (2) "incarcerated individual" means an
3 individual, the legal guardian or conservator of an individual
4 or, for an individual who is an unemancipated minor, the parent
5 or guardian of the individual, who is confined in any of the
6 following correctional facilities:

7 (a) a state correctional facility;

8 (b) a privately operated correctional
9 facility;

10 (c) a county jail;

11 (d) a privately operated jail;

12 (e) a detention facility that is
13 operated under the authority of the children, youth and
14 families department and that holds the individual pending a
15 court hearing; or

16 (f) a facility that is operated under
17 the authority of the children, youth and families department
18 and that provides for the care and rehabilitation of an
19 individual who is under eighteen years of age and who has
20 committed an act that would be designated as a crime under the
21 law if committed by an individual who is eighteen years of age
22 or older;

23 (3) "medicaid" means the joint federal-state
24 health coverage program pursuant to Title 19 or Title 21 of the
25 federal Social Security Act and rules promulgated pursuant to

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1 that act; and

2 (4) "unemancipated minor" means an individual
3 who is under eighteen years of age and who:

4 (a) is not on active duty in the armed
5 forces; and

6 (b) has not been declared by court order
7 to be emancipated."

8 SECTION 2. [NEW MATERIAL] RECIDIVISM REDUCTION TRANSITION
9 PROGRAM.--

10 A. A correctional facility shall ensure that each
11 inmate of that correctional facility is screened for mental
12 illness and for habitual substance abuse within thirty days of
13 incarceration in that facility.

14 B. A correctional facility shall ensure that each
15 qualifying inmate is offered the opportunity to participate in
16 a "recidivism reduction transition program" as follows:

17 (1) a correctional facility that is not a
18 county jail shall refer each qualifying inmate upon release to
19 case management and evidence-based behavioral health services.
20 The correctional facility shall assess what options for payment
21 are available for these services and housing and assist the
22 inmate, to the extent possible, in pairing these services with
23 available payment sources. A correctional facility shall
24 facilitate each qualifying inmate's enrollment in medicaid in
25 accordance with the provisions of Section 27-2-12.22 NMSA 1978;

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1 and

2 (2) in the case of county jails, the human
3 services department shall:

4 (a) upon the written request of a county
5 jail, provide a behavioral health screening tool to facilitate
6 screenings, information technology resources and technical
7 assistance to that county jail in order to implement the
8 provisions of Subsections A and C of this section; and

9 (b) upon release from a county jail of a
10 qualifying inmate who is enrolled in medicaid, ensure that the
11 qualifying inmate is provided with case management and
12 evidence-based behavioral health services.

13 C. The human services department shall provide
14 information and services to correctional facilities seeking
15 medicaid reimbursement for recidivism reduction transition
16 program services.

17 D. As used in this section:

18 (1) "behavioral health services" means a
19 comprehensive array of professional and ancillary services for
20 the treatment, habilitation, prevention and identification of
21 mental illnesses, behavioral symptoms associated with
22 developmental disabilities, substance abuse disorders and
23 trauma spectrum disorders;

24 (2) "case management" means services that
25 ensure that all of a patient's behavioral health services,

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1 primary care and other health care and social service needs are
2 coordinated to maximize the patient's timely access to care and
3 services to address the patient's health care and social
4 service needs:

5 (a) through care plan development,
6 communication and monitoring; and

7 (b) regardless of payer sources for the
8 patient's health care and social services;

9 (3) "correctional facility" means a:

10 (a) state correctional facility;

11 (b) privately operated correctional
12 facility;

13 (c) county jail;

14 (d) privately operated jail;

15 (e) detention facility that is operated
16 under the authority of the children, youth and families
17 department and that holds the individual pending a court
18 hearing; or

19 (f) facility that is operated under the
20 authority of the children, youth and families department and
21 that provides for the care and rehabilitation of an individual
22 who is under eighteen years of age and who has committed an act
23 that would be designated as a crime under the law if committed
24 by an individual who is eighteen years of age or older;

25 (4) "medicaid" means the joint federal-state

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1 health coverage program pursuant to Title 19 or Title 21 of the
2 federal Social Security Act and rules promulgated pursuant to
3 that act; and

4 (5) "qualifying inmate" means an inmate who
5 has been diagnosed as currently having a mental illness or a
6 substance use disorder, either through the screening provided
7 pursuant to the provisions of Subsection A of this section or
8 as evidenced in the inmate's medical record.

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