

HOUSE BILL 416

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING THE MEDICAID BUY-IN ACT TO PROVIDE HEALTH COVERAGE TO CERTAIN UNINSURED INDIVIDUALS; CREATING THE HEALTH CARE AFFORDABILITY AND ACCESS IMPROVEMENT FUND; CREATING AN ADVISORY BOARD; MAKING
HHHC→**APPROPRIATIONS**←HHHC HHHC→**AN APPROPRIATION**←HHHC.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Medicaid Buy-In Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the

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Medicaid Buy-In Act is to establish a state public option through medicaid to provide New Mexico residents with a choice of a high-quality, low-cost health insurance plan.

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the Medicaid Buy-In Act:

A. "copayment" means a fixed dollar amount that a medicaid buy-in enrollee must pay directly to a health care provider or pharmacy for a service, visit or item;

B. "deductible" means a fixed dollar amount that a person enrolled in the medicaid buy-in plan may be required to pay during a benefit period before the plan begins payment for covered benefits;

C. "department" means the human services department;

D. "health care coverage premium cost" means the premium charged for health care coverage that is available or currently provided to an individual;

E. "health care provider" means any physical, mental or behavioral health provider, including a hospital, physician, clinic and other health facility;

F. "managed care organization" means an organization licensed or authorized through an agreement among state entities to manage, coordinate and receive payment for the delivery of specified services to enrolled members;

G. "medicaid" means the joint federal-state health

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coverage program pursuant to Title 19 or Title 21 of the federal Social Security Act, as amended, and the rules promulgated pursuant to that act;

H. "medicaid buy-in plan" means a state-administered public option health care coverage plan that leverages the medicaid coverage structure;

I. "medicare" means coverage under Part A or Part B of Title 18 of the federal Social Security Act, as amended, and the rules promulgated pursuant to that act;

J. "premium" means the monthly amount that a medicaid buy-in enrollee must pay directly to the managed care organization offering the enrollee's plan for consideration of the plan's coverage; and

K. "resident" means a person establishing intent to permanently reside in New Mexico.

SECTION 4. [NEW MATERIAL] MEDICAID BUY-IN PLAN.--

A. By January 1, 2021, the department shall establish a medicaid buy-in plan and shall offer the buy-in plan for purchase by a resident:

(1) who is ineligible for the following:

- (a) medicaid;
- (b) medicare; and
- (c) advance premium tax credits under

the federal Patient Protection and Affordable Care Act; and

(2) whose employer has not disenrolled or

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denied the resident enrollment in employer-sponsored health coverage on the basis that the resident would otherwise qualify for enrollment in medicaid buy-in coverage.

B. Contingent upon further study as outlined in the Medicaid Buy-In Act, the department may expand eligibility to other New Mexico residents beyond those individuals who HHHC→~~quality~~←HHHC HHHC→qualify←HHHC for the medicaid buy-in pursuant to the provisions of Subsection A of this section.

C. The department shall establish benefits under the medicaid buy-in plan in accordance with federal and state law to ensure that covered benefits include:

- (1) ambulatory patient services;
 - (2) emergency services;
 - (3) hospitalization;
 - (4) maternity and newborn care;
 - (5) mental health and substance use disorder services, including behavioral health treatment;
 - (6) prescription drugs;
 - (7) rehabilitative and habilitative services and devices;
 - (8) laboratory services;
 - (9) preventive and wellness services, including reproductive health and chronic disease management;
- and
- (10) pediatric services, including oral and

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vision care.

D. For services and benefits provided under this section, the department may pursue any available federal financial participation.

E. The department shall coordinate the medicaid buy-in plan's enrollment and eligibility to maximize the continuity of coverage between the medicaid buy-in plan, medicaid and private health plans.

F. Health care provider reimbursement rates shall be based on the medicaid fee schedule. Contingent upon available funds, the department may increase reimbursement rates for health care providers, so long as these increases do not jeopardize the sustainability of medicaid or the medicaid buy-in plan.

G. The medicaid buy-in plan shall be established in compliance with non-discrimination mandates set forth in the constitution of New Mexico and the Human Rights Act and the federal Civil Rights Act of 1964 and shall be available to residents irrespective of age, race, gender, national origin, immigration status, disability or geographic location.

SECTION 5. [NEW MATERIAL] ADMINISTRATION.--

A. The department shall develop a plan for administering the medicaid buy-in plan that prioritizes affordability for enrollees and provides opportunities to maximize federal dollars.

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B. The department shall:

(1) establish an affordability scale for premiums and other cost-sharing fees, such as copayments and deductibles, based on household income. The department shall offer discounted premiums and cost-sharing fees in accordance with the affordability scale to residents eligible to enroll in the medicaid buy-in plan; provided that such financial assistance is, at a minimum, offered to residents with household incomes below two hundred percent of the federal poverty level;

(2) set the total amount of premiums that should be assessed to medicaid buy-in plan enrollees, after an actuarial analysis, to ensure maximum access to coverage. Premiums imposed may be set at a level sufficient to offset the costs of health benefits under the medicaid buy-in plan and related administrative costs;

(3) establish enrollment periods that are no less extensive than those provided for under the federal Patient Protection and Affordable Care Act; and

(4) consult with representatives of New Mexico Indian nations, tribes and pueblos to ensure that implementation and expansion of the medicaid buy-in plan promote effective, meaningful communication and collaboration, including communicating and collaborating on those nations', tribes' and pueblos' plans for participating in the medicaid

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buy-in plan.

C. The department may:

(1) administer the medicaid buy-in plan through the managed care organizations under contract with the state to provide medicaid services and benefits HHC→, or through other organizations that offer federally qualified health plans on the New Mexico health insurance exchange←HHC.

Notwithstanding this provision, Native Americans eligible for the medicaid buy-in plan may choose to continue receiving medicaid or medicaid buy-in services through fee-for-service arrangements;

(2) establish special enrollment periods for individuals, categories of enrollees or the entire population eligible for the medicaid buy-in plan;

(3) set the medical loss ratio for insurers offering the medicaid buy-in plan consistent with the ratio applicable to medicaid;

(4) establish a method for procuring prescription drugs. This authority shall include:

(a) consulting or contractiing with other entities or states for combined purchasing power; and

(b) seeking federal authority for a wholesale drug importation program that complies with federal provisions relating to importation of pharmaceuticals and federal requirements regarding safety and cost savings; and

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(5) seek viable opportunities to reduce costs of the medicaid buy-in plan to consumers and the general fund; provided that such opportunities are consistent with the provisions of the Medicaid Buy-In Act, do not reduce eligibility or benefits for medicaid enrollees and do not jeopardize federal financing for medical assistance.

D. The department shall promulgate rules consistent with and necessary to carry HHC→of←HHC HHC→out←HHC the provisions of the Medicaid Buy-In Act.

SECTION 6. [NEW MATERIAL] HEALTH CARE AFFORDABILITY AND ACCESS IMPROVEMENT FUND CREATED.--

A. The "health care affordability and access improvement fund" is created as a nonreverting fund in the state treasury. The department shall administer the fund. The fund shall be invested by the state treasurer as other state funds are invested. Income earned from investment of the fund shall be credited to the health care affordability and access improvement fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

B. Money in the health care affordability and access improvement fund shall be expended by the department to ensure affordability of the medicaid buy-in plan for enrollees in the plan. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant

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to vouchers signed by the secretary of human services or the secretary's designee.

C. The department may expend a maximum of five percent per year of the fund for the administrative costs related to the medicaid buy-in plan.

SECTION 7. [NEW MATERIAL] ENROLLMENT.--The department and the New Mexico health insurance exchange shall coordinate efforts and cooperate to establish:

A. HHHC → ~~a system~~ ← HHHC HHHC → **systems** ← HHHC under which residents may apply for enrollment in, receive a determination of eligibility for participation in and renew participation in medicaid, the medicaid buy-in plan or a qualified health plan offered by the exchange; and

B. HHHC → ~~a~~ ← HHHC consumer outreach HHHC → ~~program~~ ← HHHC HHHC → **programs** ← HHHC to assist residents with enrolling in medicaid, the medicaid buy-in plan and qualified health plans offered through the exchange.

SECTION 8. [NEW MATERIAL] ADDITIONAL STUDY.--

A. The department, in coordination with the legislative health and human services committee, shall conduct further study of the medicaid buy-in plan HHHC → ~~to evaluate its viability for offering it to a wider population of residents~~ ← HHHC. The study shall include an assessment of the:

HHHC → ~~(1) viability of offering the medicaid buy-in plan to more residents;~~ ← HHHC

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HHHC→(1) administrative design and structure of the
medicaid buy-in plan;

(2) opportunity and viability of offering the
medicaid buy-in plan to more residents;←HHHC

(HHHC→2 3←HHHC) impact on the individual and group
insurance markets;

(HHHC→3 4←HHHC) level of provider reimbursement
rates to maximize access to health care services;

(HHHC→4 5←HHHC) steps necessary for the state to
apply for federal waivers to maximize federal dollars and
leverage them to ensure affordability for enrollees in the
medicaid buy-in plan; and

(HHHC→5 6←HHHC) sustainability options for a
medicaid buy-in plan that is open to all residents.

HHHC→B. By December 31, 2019, the department shall
submit a report to the legislative health and human services
committee and the legislative finance committee detailing the
administrative design and structure of the medicaid buy-in
plan.←HHHC

HHHC→B. C.←HHHC By September 30, 2020, the department
shall submit a report to the legislative health and human
services committee and the legislative finance committee
detailing the findings of additional study of the medicaid
buy-in plan. The report shall include proposals for continued
sustainability of the medicaid buy-in plan and offering the

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plan to more residents.

HHHC→~~C.~~ ~~D.~~←HHHC Contingent upon the findings of the additional study of the medicaid buy-in plan, the department may seek any federal waivers necessary to offer the medicaid buy-in plan to more residents and maximize federal dollars to ensure affordability for enrollees. The department's authority to seek federal waivers includes authority to seek approval for health care programs and delivery system innovations under Sections 1331 and 1332 of the federal Patient Protection and Affordable Care Act and Section 1115 of the federal Social Security Act.

SECTION 9. [NEW MATERIAL] ADVISORY COUNCIL.--The secretary of human services shall establish a "medicaid buy-in advisory council" to advise the department on implementation, plan affordability, marketing, enrollment, outreach and evaluation of health care access for residents enrolled in the medicaid buy-in plan. The advisory council consists of:

- A. the secretary of human services;
- B. the superintendent of insurance;
- C. the chief executive officer of the New Mexico health insurance exchange;
- D. the executive director of the New Mexico medical insurance pool;
- E. five consumer advocates, including one that serves Native American populations in the state;

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- F. three health care providers;
- G. one representative from a medicaid managed care organization;
- H. at least one representative with expertise in the federal Indian health service or a tribal government health care entity and health care delivery to Native Americans residing on reservations;
- I. at least one representative with expertise in the federal Indian health service or a tribal government health care entity and health care delivery to Native Americans residing off-reservation in urban areas;
- J. at least one public health expert with experience in behavioral and mental health;
- K. at least one public health expert with experience evaluating health data and utilization trends; and
- L. at least one researcher with experience in health care financing and administration.

SECTION 10. [NEW MATERIAL] LIMITATION ON EMPLOYERS.--An employer that offers employer-sponsored health coverage as of the effective date of the Medicaid Buy-In Act shall not disenroll or deny enrollment to a resident covered under the employer's employer-sponsored health coverage on the basis that the employer believes that the resident would qualify for medicaid buy-in plan coverage.

SECTION 11. HHHC→**APPROPRIATIONS** **APPROPRIATION**←HHHC.--

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HHHC→~~A. Twelve million dollars (\$12,000,000)~~←HHHC

HHHC→Four million dollars (\$4,000,000)←HHHC is appropriated from the general fund to the human services department for expenditure in fiscal year 2020 for the implementation and administration of the medicaid buy-in plan pursuant to the provisions of the Medicaid Buy-In Act and to conduct the expansion study pursuant to Section 8 of that act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

HHHC→~~B. Twelve million dollars (\$12,000,000) is appropriated from the general fund to the health care affordability and access improvement fund for expenditure in fiscal year 2020 and subsequent fiscal years to ensure affordability of the medicaid buy-in plan for enrollees in the plan pursuant to the Medicaid Buy-In Act. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.~~←HHHC