SENATE BILL 405

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

INTRODUCED BY

Gerald Ortiz y Pino and Jacob R. Candelaria

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 APPROPRIATIONS.

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
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 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 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 quality
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 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.

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 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.

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

(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 of 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 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:

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A. a system 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. a consumer outreach program 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 to evaluate its viability for offering it to a wider population of residents. The study shall include an assessment of the:

(1) viability of offering the medicaid buy-in plan to more residents;
(2) impact on the individual and group insurance markets;
(3) level of provider reimbursement rates to maximize access to health care services;
(4) 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
(5) sustainability options for a medicaid plan.
A medicaid buy-in plan that is open to all residents.

B. 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 plan to more residents.

C. 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;
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. APPROPRIATIONS.--

A. Twelve million dollars ($12,000,000) 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.

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.

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