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HOUSE BILL 70

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO HEALTH CARE; ENACTING THE BEHAVIORAL HEALTH
MEDICAID WAIVER ACT; MAKING AN APPROPRIATION; DECLARING AN
EMERGENCY.

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 "Behavioral Health Medicaid Waiver Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Behavioral Health Medicaid Waiver Act:

A. "behavioral health disability" means serious
mental illness, serious emotional disturbance, substance use
disorder or brain injury whenever that condition:

(1) substantially impairs a person's ability
to manage the person's own affairs; or

(2) makes a person eligible to receive

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1 disability benefits from New Mexico or the federal government;

2 B. "brain injury" means an injury to the brain of
3 traumatic or acquired origin, including an open or closed head
4 injury, caused by:

5 (1) an insult to the brain from an outside
6 physical force;

7 (2) anoxia;

8 (3) an electrical shock;

9 (4) shaken baby syndrome;

10 (5) a toxic or chemical substance;

11 (6) a near-drowning;

12 (7) an infection;

13 (8) a tumor;

14 (9) a vascular lesion; or

15 (10) an event that results in either temporary
16 or permanent, partial or total impairment in one or more areas
17 of the brain that results in total or partial functional
18 disability, including:

19 (a) cognition;

20 (b) language;

21 (c) memory;

22 (d) attention;

23 (e) reasoning;

24 (f) abstract thinking;

25 (g) judgment;

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- 1 (h) problem solving;
- 2 (i) sensory perception and motor
- 3 abilities;
- 4 (j) psychosocial behavior;
- 5 (k) physical functions;
- 6 (l) information processing; or
- 7 (m) speech;

8 C. "serious emotional disturbance" means a
9 diagnosable mental, behavioral or emotional disorder in a
10 person under the age of eighteen years and of sufficient
11 duration to meet diagnostic criteria that results in functional
12 impairment that substantially interferes with or limits the
13 person's role or functioning in family, school or community
14 activities;

15 D. "serious mental illness" means a diagnosable
16 mental, behavioral or emotional disorder in a person eighteen
17 years of age or older of sufficient duration to meet diagnostic
18 criteria that results in functional impairment that
19 substantially interferes with or limits one or more major life
20 activities; and

21 E. "substance use disorder" means dependence on or
22 abuse of alcohol, illicit drugs or psychotherapeutics,
23 including prescription pain relievers, sedatives, tranquilizers
24 or stimulants, in the past twelve months based on assessments
25 of individual diagnostic criteria from the current edition of

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1 the *Diagnostic and Statistical Manual of Mental Disorders*
2 published by the American psychiatric association.

3 SECTION 3. [NEW MATERIAL] HEALTH CARE AUTHORITY DUTIES--
4 PERSONS WITH BEHAVIORAL HEALTH DISABILITIES.--

5 A. Subject to the availability of appropriations
6 provided expressly for this purpose, the health care authority
7 shall:

8 (1) acquire, provide or coordinate support and
9 services for persons with behavioral health disabilities;

10 (2) enter into contracts and provider
11 agreements with agencies and persons capable of providing
12 support and services to persons with behavioral health
13 disabilities; and

14 (3) establish advisory councils and task
15 forces as necessary to guide the development of and to review
16 the operation of support and services to persons with
17 behavioral health disabilities.

18 B. Support and services shall be provided by the
19 health care authority based on individual support and service
20 plans developed by an interdisciplinary team. The team is
21 responsible for collectively evaluating a person's needs and
22 developing an individual support and service plan to meet the
23 needs.

24 C. The health care authority shall:

25 (1) solicit the involvement of persons with

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1 behavioral health disabilities and their family members,
2 providers, parents, professional organizations and other
3 governmental organizations prior to the adoption or revision of
4 rules concerning the provision of support, services, standards
5 or funding systems; provided that participants shall be
6 selected in a manner that reflects geographical, cultural,
7 organizational and professional representation across New
8 Mexico; and

9 (2) develop rules, including policies and
10 procedures that, to the extent possible, promote uniformity in
11 reimbursement and quality assurance systems regardless of the
12 source of funding.

13 SECTION 4. [NEW MATERIAL] TEMPORARY PROVISION--DUTIES OF
14 HEALTH CARE AUTHORITY--MEDICAID WAIVER PROGRAM.--

15 A. The health care authority shall immediately
16 conduct monthly meetings with persons with behavioral health
17 disabilities and their family members, providers of behavioral
18 health services, the university of New Mexico, advocates for
19 persons with behavioral health disabilities and county and
20 municipal officials who are serving persons with behavioral
21 health disabilities to determine the best way to apply to the
22 federal centers for medicare and medicaid services for
23 authorization to operate a medicaid waiver program for persons
24 with behavioral health disabilities. The meetings shall
25 continue until the health care authority has submitted an

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1 application to the federal centers for medicare and medicaid
2 services for authorization to operate a medicaid waiver program
3 for residents of New Mexico with behavioral health
4 disabilities.

5 B. The health care authority shall retain a
6 consulting entity to assist the health care authority in the
7 development of an application to the federal centers for
8 medicare and medicaid services for authorization to operate a
9 medicaid waiver program for persons with behavioral health
10 disabilities.

11 C. No later than December 31, 2025, the health care
12 authority shall submit an application to the federal centers
13 for medicare and medicaid services for authorization to operate
14 a medicaid waiver program for persons with behavioral health
15 disabilities, seeking authorization to operate a medicaid
16 waiver program for persons with behavioral health disabilities
17 that is comparable to New Mexico's home and community-based
18 medicaid waiver programs for persons with developmental
19 disabilities.

20 SECTION 5. APPROPRIATION.--One million one hundred
21 thousand dollars (\$1,100,000) is appropriated from the general
22 fund to the health care authority for expenditure in fiscal
23 years 2026 and 2027 to retain a qualified consultant to guide
24 the health care authority in the development of an application
25 to the federal government for the creation of a behavioral

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1 health medicaid waiver program and to hire four full-time
2 employees to work exclusively to develop and submit the
3 application for a medicaid waiver program. Any unexpended or
4 unencumbered balance remaining at the end of fiscal year 2027
5 shall revert to the general fund.

6 SECTION 6. EMERGENCY.--It is necessary for the public
7 peace, health and safety that this act take effect immediately.

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