

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 103

3 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

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10 AN ACT

11 RELATING TO HEALTH CARE; REQUIRING ENTITIES PARTICIPATING IN
12 MEDICAID PERSONAL CARE SERVICES PROGRAMS TO REPORT TO THE
13 HEALTH CARE AUTHORITY ON THE STATUS OF THE DIRECT CARE
14 WORKFORCE; REQUIRING THE HEALTH CARE AUTHORITY TO DEVELOP
15 REPORTS ON THE DIRECT CARE WORKFORCE.
16

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

18 SECTION 1. [NEW MATERIAL] DIRECT CARE WORKFORCE REPORTING
19 REQUIREMENTS--HEALTH CARE AUTHORITY DUTIES.--

20 A. As used in this section:

21 (1) "agency-based community benefit" means the
22 personal care services program provided to eligible medicaid
23 recipients who do not wish to self-direct their community
24 benefit services;

25 (2) "authority" means the health care

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1 authority;

2 (3) "direct care worker" means a non-
3 administrative employee who spends the majority of working
4 hours providing personal care services to eligible medicaid
5 recipients;

6 (4) "eligible medicaid recipient" means a
7 person whom the authority has determined to be eligible to
8 receive medicaid-related personal care services either through
9 the agency-based community benefit program or the self-directed
10 community benefit program;

11 (5) "financial management agency" means an
12 entity that contracts with a medicaid managed care organization
13 to provide the fiscal administration functions for eligible
14 medicaid recipients participating in the self-directed
15 community benefit program;

16 (6) "personal care service provider agency"
17 means an entity that:

18 (a) has entered into a medicaid provider
19 participation agreement with the authority and: 1) is
20 contracted with a medicaid managed care organization to provide
21 personal care services to eligible medicaid recipients; or 2)
22 provides personal care services to eligible medicaid recipients
23 through fee-for-service arrangement;

24 (b) is reimbursed for personal care
25 services provided to eligible medicaid recipients; and

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1 (c) employs direct care workers to
2 provide personal care services to eligible medicaid recipients;

3 (7) "personal care services" means services
4 provided to an eligible medicaid recipient to assist the
5 eligible medicaid recipient with the instrumental activities of
6 daily living; and

7 (8) "self-directed community benefit" means
8 the personal care services program provided to eligible
9 medicaid recipients who choose to self-direct their community
10 benefit services.

11 B. By March 1, 2026, and annually thereafter, each
12 personal care service provider agency shall, in a form and
13 manner prescribed by the authority, submit data on the direct
14 care workers providing agency-based community benefits at the
15 personal care service provider agency. The data shall include
16 information on the:

17 (1) total number of full-time and part-time
18 direct care workers employed at the personal care service
19 provider agency;

20 (2) disaggregated demographic information on
21 direct care workers employed at the personal care service
22 provider agency that includes:

23 (a) age;

24 (b) gender; and

25 (c) race and ethnicity;

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1 (3) highest, lowest and average hourly wage
2 paid to direct care workers employed at the personal care
3 service provider agency;

4 (4) average length of employment for direct
5 care workers employed at the personal care service provider
6 agency;

7 (5) vacancy and turnover rates for direct care
8 workers employed at the personal care service provider agency;
9 and

10 (6) availability and type of benefits
11 provided by the personal care service provider agency to direct
12 care workers.

13 C. By March 1, 2026, and annually thereafter, each
14 medicaid managed care organization and financial management
15 agency shall, in a form and manner prescribed by the authority,
16 submit data on the direct care workers providing self-directed
17 community benefits. The data shall include:

18 (1) the total number of:

19 (a) full-time direct care workers
20 providing personal care services through the self-directed
21 community benefit program; and

22 (b) part-time direct care workers
23 providing personal care services through the self-directed
24 community benefit program;

25 (2) the highest, lowest and average hourly

1 wage of direct care workers providing personal care services
 2 through the self-directed community benefit program;

3 (3) the percentage of eligible medicaid
 4 recipients enrolled in the self-directed community benefit
 5 program who are unable to receive services due to a shortage of
 6 direct care workers; and

7 (4) disaggregated demographic information on
 8 the direct care workers providing personal care services
 9 through the self-directed community benefit program that
 10 includes:

- 11 (a) age;
- 12 (b) gender; and
- 13 (c) race and ethnicity.

14 D. By July 1, 2026, and annually thereafter, the
 15 authority shall review and analyze the data submitted pursuant
 16 to this section and shall submit a report on the data to the
 17 interim legislative health and human services committee, the
 18 legislative finance committee, the governor and the interested
 19 parties advisory group established pursuant to this section.

20 E. By January 1, 2030, the authority shall perform
 21 a study for the purposes of determining the cost of providing
 22 personal care services and recommending the reimbursement rates
 23 to be paid for personal care services. The results of the
 24 study shall be provided to the interim legislative health and
 25 human services committee, the legislative finance committee,

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1 the governor and the interested parties advisory group
2 established pursuant to this section. Recommended
3 reimbursement rates from the cost study shall include
4 consideration of the following factors:

5 (1) federal requirements related to payment
6 adequacy;

7 (2) the additional costs that would be
8 incurred by personal care service provider agencies if direct
9 care workers employed by personal care service provider
10 agencies were to be paid at least one hundred fifty percent of
11 the state minimum wage;

12 (3) recent and projected changes in costs due
13 to factors that include direct and indirect costs, inflation
14 and changes in the applicable minimum wage; and

15 (4) direct care worker vacancies that affect
16 personal care service provider agency costs.

17 F. The authority shall establish an interested
18 parties advisory group that meets at least every two years to
19 advise and provide recommendations to the authority on
20 reimbursement rates for personal care, home health aide,
21 homemaker and habilitation services. The authority shall
22 publish the advisory group's recommendations on the authority's
23 website. The advisory group shall consist of persons who have
24 an interest in the payment rates, including:

25 (1) direct care workers;

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1 (2) eligible medicaid recipients or the
2 eligible medicaid recipients' authorized representatives; and

3 (3) authority staff.

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