

AN ACT

RELATING TO HEALTH; CHANGING THE WAY THE DEPARTMENT OF HEALTH PROVIDES BEHAVIORAL HEALTH SERVICES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

Section 1. BEHAVIORAL HEALTH SERVICES--POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH.--Subject to appropriation, the department of health shall:

A. contract for behavioral health services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. establish criteria for determining individual eligibility for behavioral health services; and

D. maintain a management information system in accordance with standards for reporting clinical and fiscal information.

Section 2. CONTRACT ELIGIBILITY.--The department of health may enter into contracts for behavioral health services with municipalities, counties, state institutions of higher education, tribal or pueblo governments or organizations, regional provider service networks or private nonprofit or for-profit corporations authorized to do business in New Mexico.

Section 3. RULES.--The department of health shall adopt rules pursuant to the State Rules Act and the Department of Health Act to implement the provision of behavioral health services.

Section 4. Section 27-5-4 NMSA 1978 (being Laws 1965, Chapter 234, Section 4, as amended) is amended to read:

"27-5-4. DEFINITIONS.--As used in the Indigent Hospital and County Health Care Act:

A. "ambulance provider" or "ambulance service" means a specialized carrier based within the state authorized under provisions and subject to limitations as provided in individual carrier certificates issued by the public regulation commission to transport persons alive, dead or dying en route by means of ambulance service. The rates and charges established by public regulation commission tariff shall govern as to allowable cost. Also included are air ambulance services approved by the board. The air ambulance service charges shall be filed and approved pursuant to

Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

B. "board" means a county indigent hospital and county health care board;

C. "indigent patient" means a person to whom an ambulance service, a hospital or a health care provider has provided medical care, ambulance transportation or health care services and who can normally support himself and his dependents on present income and liquid assets available to him but, taking into consideration this income and those assets and his requirement for other necessities of life for himself and his dependents, is unable to pay the cost of the ambulance transportation or medical care administered or both. If provided by resolution of a board, it shall not include any person whose annual income together with his spouse's annual income totals an amount that is fifty percent greater than the per capita personal income for New Mexico as shown for the most recent year available in the survey of current business published by the United States department of commerce. Every board that has a balance remaining in the fund at the end of a given fiscal year shall consider and may adopt at the first meeting of the succeeding fiscal year a resolution increasing the standard for indigency. The term "indigent patient" includes a minor who has received ambulance transportation or medical care or both and whose

parent or the person having custody of that minor would qualify as an indigent patient if transported by ambulance or admitted to a hospital for care or treated by a health care provider or all three;

D. "hospital" means any general or limited hospital licensed by the department of health, whether nonprofit or owned by a political subdivision, and may include by resolution of a board the following health facilities if licensed or, in the case of out-of-state hospitals, approved, by the department of health:

- (1) for-profit hospitals;
- (2) state-owned hospitals; or
- (3) licensed out-of-state hospitals where treatment provided is necessary for the proper care of an indigent patient when that care is not available in an in-state hospital;

E. "cost" means all allowable ambulance transportation costs, medical care costs or costs of providing health care services, to the extent determined by resolution of a board, for an indigent patient. Allowable costs shall be determined in accordance with a uniform system of accounting and cost analysis as determined by regulation of a board, which includes cost of ancillary services but shall not include the cost of servicing long-term indebtedness of a hospital, health care provider or ambulance

service;

F. "fund" means a county indigent hospital claims fund;

G. "medicaid eligible" means a person who is eligible for medical assistance from the department;

H. "county" means any county except a class A county with a county hospital operated and maintained pursuant to a lease with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

I. "department" means the human services department;

J. "sole community provider hospital" means a hospital that is a sole community provider hospital under the provisions of the federal medicare guidelines established in 42 C.F.R. 412.92 pursuant to Title 18 of the federal Social Security Act;

K. "drug rehabilitation center" means an agency of local government, a state agency, a private nonprofit entity or combination thereof that operates drug abuse rehabilitation programs that meet the standards and requirements set by the department of health;

L. "alcohol rehabilitation center" means an agency of local government, a state agency, a private nonprofit entity or combination thereof that operates alcohol

abuse rehabilitation programs that meet the standards set by the department of health;

M. "mental health center" means a not-for-profit center that provides outpatient mental health services that meet the standards set by the department of health;

N. "health care provider" means:

- (1) a nursing home;
- (2) an in-state home health agency;
- (3) an in-state licensed hospice;
- (4) a community-based health program

operated by a political subdivision of the state or other nonprofit health organization that provides prenatal care delivered by New Mexico licensed, certified or registered health care practitioners;

- (5) a community-based health program

operated by a political subdivision of the state or other nonprofit health care organization that provides primary care delivered by New Mexico licensed, certified or registered health care practitioners;

- (6) a drug rehabilitation center;
- (7) an alcohol rehabilitation center; or
- (8) a mental health center;

O. "health care services" means all treatment and services designed to promote improved health in the county indigent population, including primary care, prenatal care,

dental care, provision of prescription drugs, preventive care or health outreach services, to the extent determined by resolution of the board; and

P. "planning" means the development of a countywide or multicounty health plan to improve and fund health services in the county based on the county's needs assessment and inventory of existing services and resources and which demonstrates coordination between the county and state and local health planning efforts."

Section 5. Section 43-3-10 NMSA 1978 (being Laws 1985, Chapter 185, Section 3, as amended) is amended to read:

"43-3-10. DEFINITIONS.--As used in Chapter 43, Article 3 NMSA 1978:

A. "board" means the board of county commissioners of a county;

B. "department" means the department of health;

C. "DWI program" means a community program specifically designed to provide treatment, aftercare or prevention of or education regarding driving while under the influence of alcohol or drugs;

D. "incarceration and treatment facility" means a minimum security detention facility that provides a DWI program;

E. "planning council" means a county DWI planning council;

F. "screening program" means a program that provides screening or examination by alcoholism treatment professionals of persons charged with or convicted of driving while intoxicated or other offenses to determine whether the person is:

(1) physically dependent on alcohol and thus suffering from the disease of alcoholism;

(2) an alcohol abuser who has not yet developed the alcoholism disease syndrome but has an entrenched pattern of pathological use of alcohol and social or occupational impairment in function from alcohol abuse; or

(3) neither an alcoholic nor an alcohol abuser such that alcoholism treatment is not necessary; and that provides referral or recommendation of such persons to the most appropriate treatment; and

G. "statewide substance abuse services plan" means the comprehensive plan for a statewide services network developed by the department that documents the extent of New Mexico's substance abuse problem and statewide needs for prevention, screening, detoxification, short-term and long-term rehabilitation, outpatient programs and DWI programs. The plan shall be based on the continuum of care concept of a comprehensive prevention and treatment system."

Section 6. Section 43-3-11 NMSA 1978 (being Laws 1985, Chapter 185, Section 4, as amended) is amended to read:

"43-3-11. POWERS AND DUTIES OF THE DEPARTMENT.--

A. The department shall adopt rules to provide for:

(1) minimum standards of service for DWI programs that contract for funds pursuant to the department's behavioral health services rules; provided that rules adopted pursuant to this section shall, before adoption, have been presented to all interested parties in a public hearing;

(2) the format and guidelines for county DWI plans and the criteria for evaluating them; and

(3) procedures for reporting of programmatic and financial information necessary to evaluate the effectiveness of programs funded. Evaluation of program effectiveness shall include an analysis of outcome-based measures and the impact of the programs on the incidence of driving while under the influence of intoxicating liquor or drugs and shall be reported to the legislature annually.

B. The department shall provide technical assistance and training to assist each county as needed in developing its DWI plan.

C. The department shall review the impact of the programs on the reduction of the incidence of driving while under the influence of intoxicating liquor or drugs, approve county DWI plans and incorporate these plans into the statewide substance abuse services plan in accordance with

Section 43-3-13 NMSA 1978.

D. Any screening programs funded pursuant to the behavioral health services rules shall be established in collaboration with the district, magistrate, metropolitan and municipal courts to be served by the screening program. Whenever feasible, the screening program shall not be provided by an alcoholism treatment program serving the judicial districts involved in order to avoid conflict of interest in recommending that offenders enter treatment."

Section 7. Section 43-3-13 NMSA 1978 (being Laws 1985, Chapter 185, Section 6, as amended) is amended to read:

"43-3-13. STATEWIDE SUBSTANCE ABUSE SERVICES PLAN.--

A. The department shall develop and update annually prior to August 30 a statewide substance abuse services plan that documents the extent of New Mexico's substance abuse problem. The plan shall describe the effectiveness of existing services and shall document needs based on a statewide assessment that reflects local planning, concerns and priorities.

B. The department shall annually invite comment and review of the substance abuse services plan for a period of no less than thirty days prior to its publication.

C. The department shall make decisions concerning proposed substance abuse programs consistent with the priorities and service system concepts contained in the

current statewide substance abuse services plan."

Section 8. Section 59A-47-35 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.34) is amended to read:

"59A-47-35. ALCOHOL DEPENDENCY COVERAGE.--

A. Each health care plan that delivers or issues for delivery in this state a group contract providing for health care expense payments on a service benefit basis or an indemnity benefit basis or both shall offer and make available benefits for the necessary care and treatment of alcohol dependency. Such benefits shall:

(1) be subject to annual deductibles and coinsurance consistent with those imposed on other benefits within the same contract;

(2) provide no less than thirty days necessary care and treatment in an alcohol dependency treatment center and thirty outpatient visits for alcohol dependency treatment; and

(3) be offered for benefit periods of no more than one year and may be limited to a lifetime maximum of no less than two benefit periods.

Such offer of benefits shall be subject to the rights of the group contract holder to reject the coverage or to select any alternative level of benefits if that right is offered by or negotiated with that health care plan.

B. For purposes of this section, "alcohol

dependency treatment center" means a facility that contracts with the health care plan and that provides a program for the treatment of alcohol dependency pursuant to a written treatment plan approved and monitored by a physician or meeting the quality standards of the department of health and which facility also:

(1) is affiliated with a hospital under a contractual agreement with an established system for patient referral;

(2) is accredited as such a facility by the joint commission on accreditation of hospitals; or

(3) meets at least the minimum standards adopted by the department of health.

C. This section applies to contracts delivered or issued for delivery or renewed, extended or amended in this state on or after July 1, 1983 or upon expiration of a collective bargaining agreement applicable to a particular contract holder, whichever is later; provided that this section does not apply to blanket, short-term travel, accident-only, limited or specified disease, individual conversion contracts or contracts designed for issuance to persons eligible for coverage under Title 18 of the Social Security Act, known as medicare, or any other similar coverage under state or federal governmental plans. With respect to any contract forms approved by the insurance

division prior to the effective date of this section, an insurer is authorized to comply with this section by the use of endorsements or riders, provided such endorsements or riders are approved by the insurance division as being in compliance with this section and applicable provisions of the Insurance Code.

D. If an organization offering group health benefits to its members makes more than one health care plan or health insurance plan policy available to its members on a member option basis, the organization shall not require alcohol dependency coverage from one health care plan or health insurer without requiring the same level of alcohol dependency coverage for all other health care plans or health insurance policies that the organization makes available to its members."

Section 9. TEMPORARY PROVISION--RECOMPILATION.--
Section 26-2-4.1 NMSA 1978 (being Laws 1987, Chapter 265, Section 5, as amended) is recompiled as Section 9-7-17 NMSA 1978.

Section 10. REPEAL.--Sections 23-7-1 through 23-7-12, 26-2-1 through 26-2-4, 26-2-5 through 26-2-14, 43-3-8, 43-3-9 and 43-3-12 NMSA 1978 (being Laws 1973, Chapter 378, Section 1, Laws 1975, Chapter 104, Sections 1 through 11, Laws 1971, Chapter 244, Sections 1 through 12, Laws 1971, Chapter 296, Section 1, Laws 1972, Chapter 10, Section 1 and Laws 1985, Chapter 185, Sections 1, 2 and 5, as amended) are repealed.

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1999. _____

