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SENATE BILL 686

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Linda M Lopez

AN ACT

RELATING TO HEALTH CARE; REQUIRING ADMINISTRATIVE, SALARY AND BENEFITS COST INFORMATION TO BE DISCLOSED TO THE HUMAN SERVICES DEPARTMENT BY MANAGED CARE ORGANIZATIONS AND MEDICAID PROVIDERS.

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

Section 1. Section 27-11-3 NMSA 1978 (being Laws 1998, Chapter 30, Section 3) is amended to read:

"27-11-3. REVIEW OF MEDICAID PROVIDERS-- CONTRACT REMEDIES-- PENALTIES. --

A. Consistent with the terms of any contract between the department and a medicaid provider, the secretary shall have the right to be afforded access to such of the medicaid provider's records and personnel, as well as its subcontracts and that subcontractor's records and personnel,

underscored material = new  
[bracketed material] = delete

1 as may be necessary to ensure that the medicaid provider is  
2 complying with the terms of its contract with the department.

3 B. Consistent with the terms of any contract  
4 between the department and a medicaid provider, the secretary  
5 shall have the right to be afforded access to the medicaid  
6 provider's cost information, including salaries, fringe  
7 benefits and administrative costs paid, incurred or claimed by  
8 the medicaid provider as expenses of its operation or service  
9 pursuant to its contract with the department.

10 ~~[B-]~~ C. Upon not less than seven days' written  
11 notice to a medicaid provider, the secretary may, consistent  
12 with the provisions of the Medicaid Provider Act and rules  
13 issued pursuant to that act, carry out an administrative  
14 investigation or conduct administrative proceedings to  
15 determine whether a medicaid provider has:

16 (1) materially breached its obligation to  
17 furnish medicaid-related services to recipients, or any other  
18 duty specified in its contract with the department;

19 (2) violated any provision of the Public  
20 Assistance Act or the Medicaid Provider Act or any rules  
21 issued pursuant to those acts;

22 (3) intentionally or with reckless disregard  
23 made any false statement with respect to any report or  
24 statement required by the Public Assistance Act or the  
25 Medicaid Provider Act, rules issued pursuant to either of

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1 those acts or a contract with the department;

2 (4) intentionally or with reckless disregard  
3 advertised or marketed, or attempted to advertise or market,  
4 its services to recipients in a manner as to misrepresent its  
5 services or capacity for services, or engaged in any  
6 deceptive, misleading or unfair practice with respect to  
7 advertising or marketing;

8 (5) hindered or prevented the secretary from  
9 performing any duty imposed by the Public Assistance Act, the  
10 Human Services Department Act or the Medicaid Provider Act or  
11 any rules issued pursuant to those acts; or

12 (6) fraudulently procured or attempted to  
13 procure any benefit from medicaid.

14 [~~C~~] D. Subject to the provisions of Subsection  
15 [~~D~~] E of this section, after affording a medicaid provider  
16 written notice of hearing not less than ten days before the  
17 hearing date and an opportunity to be heard, and upon making  
18 appropriate administrative findings, the secretary may take  
19 any or any combination of the following actions against the  
20 provider:

21 (1) impose an administrative penalty of not  
22 more than five thousand dollars (\$5,000) for engaging in any  
23 practice described in Paragraphs (1) through [~~(7)~~] (6) of  
24 Subsection [~~B~~] C of this section; provided that each separate  
25 occurrence of such practice shall constitute a separate

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1 offense;

2 (2) issue an administrative order requiring  
3 the provider to:

4 (a) cease or modify any specified  
5 conduct or practices engaged in by it or its employees,  
6 subcontractors or agents;

7 (b) fulfill its contractual obligations  
8 in the manner specified in the order;

9 (c) provide any service that has been  
10 denied;

11 (d) take steps to provide or arrange  
12 for any service that it has agreed or is otherwise obligated  
13 to make available; or

14 (e) enter into and abide by the terms  
15 of a binding or nonbinding arbitration proceeding, if agreed  
16 to by any opposing party, including the secretary; or

17 (3) suspend or revoke the contract between  
18 the provider and the department pursuant to the terms of that  
19 contract.

20 [~~D.~~] E. If a contract between the department and a  
21 medicaid provider explicitly specifies a dispute resolution  
22 mechanism for use in resolving disputes over performance of  
23 that contract, the dispute resolution mechanism specified in  
24 the contract shall be used to resolve such disputes in lieu of  
25 the mechanism set forth in Subsection [~~E.~~] D. of this section.

