HOUSE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LABOR; ESTABLISHING A PREVAILING WAGE FOR HOME CARE WORKERS.

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

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"[NEW MATERIAL] PREVAILING WAGE FOR HOME CARE WORKERS.--

A. As used in this section:

(1) "division" means the labor relations division of the workforce solutions department;

(2) "home- and community-based services provider agency" means an entity that:

(a) has entered into a medicaid provider participation agreement with the medical assistance division of the authority and: 1) is contracted with a managed care

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organization to provide home care services to medicaid recipients; or 2) provides personal care services to medicaid recipients through fee-for-service arrangements;

(b) is reimbursed for home care services provided to individuals covered by medicaid; and

(c) employs home care workers to provide home care services to individuals covered by medicaid;

(3) "home care services" means services provided to a person to assist with activities of daily living that are included in home- and community-based service medicaid programs administered by the authority;

(4) "home care worker" means a worker who spends the majority of working hours providing home care services to individual recipients of medicaid home- and community-based service programs. A home care worker may:

(a) be employed by a home- and community-based service provider agency; or

(b) deliver services to a medicaid recipient through a consumer-directed services delivery model;

(5) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal act and regulations issued pursuant to that act; and

(6) "wage" means the basic hourly rate of pay.

B. Beginning July 1, 2027, all home care workers shall earn a prevailing wage of one hundred fifty percent of

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the state minimum wage established by the Minimum Wage Act.

C. By March 1, 2028 and each March 1 thereafter, the director of the division shall determine the increase in the prevailing wage for home care workers to take effect on July 1 of that year. The increase shall be equal to the increase in the prior three-year average consumer price index for all urban consumers, or its successor index, as published by the United States department of labor or its successor agency.

D. The authority shall publish the prevailing wage for home care workers on the authority's website and notify each home- and community-based services provider agency of any changes to the prevailing wage.

E. A home care worker may file a complaint with the director of the division if a home- and community-based services provider agency or other party has failed to pay the prevailing wage required by this section. The home care worker or the party that the complaint was filed against may submit a request in writing to the director of the division for a mediation to resolve the complaint within thirty days of the filing of the complaint.

F. The director of the division shall:

(1) within thirty days of the filing of a complaint, commence an investigation of the allegations contained in the complaint;

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(2) within seventy-five days after the completion of mediation or, if no mediation is requested, within seventy-five days after the filing of the complaint, make a determination supported by findings of fact and conclusions of law whether there has been an underpayment of wages in violation of this section; and

(3) prior to issuing a determination, provide the home- and community-based services provider agency or other agency against whom the complaint has been filed with an opportunity to respond to the complaint and provide any exculpatory evidence."

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