

June 25, 2012

Legislative Health and Human Services Interim Committee Meeting

My name is Nat Dean, I am from Santa Fe and am a 28-year survivor of traumatic brain injury. I have had the benefit of partnership with a series of four different assistance dogs over the past 23 years who have helped me navigate the world in ways I would otherwise be unable to manage on my own.

I am here today to follow-up on Senate Joint Memorial 40 (Assistance Animal Act Compliance), sponsored by Senator Nancy Rodriguez, (at [http://www.nmlegis.gov/lcs/\\_session.aspxChamber=S&LegType=JM&LegNo=40&year=12](http://www.nmlegis.gov/lcs/_session.aspxChamber=S&LegType=JM&LegNo=40&year=12)) which died in its final stage of passing the House on the last day of the 2012 session due to lack of time. SJM 40 requested that a task force be formed to address issues of access and compliance with the Assistance Animal Act of 1987 and 1999.

There is a disparity between the New Mexico Law (Chapter 28, Article 7, 28-7-3 [1987] and Article II, 28-11-3 [1999] or at <http://www.nmlegis.gov/sessions/99%20Regular/FinalVersions/senate/SB0357.html>) and the Americans with Disabilities Act (42, U.S.C.A., 12101 et. seq. OR see Department of Justice brief at [http://www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm)) and there would be great benefit if the New Mexico Law could be modified to better reflect the ADA.

There has been an exponential increase in the number of dogs being used for assistance in New Mexico and many of them are not adequately trained. This has created some serious safety and access problems. As a matter of fact, New Mexico has the highest number of complaints about these issues to the Department of Justice both from business entities and assistance animal users alike (also called 'handlers'). Changes to the law would require a new piece of legislation.

Handlers (who either self-train, work with private trainers or use the services of an accredited training organization) and the public who come into contact with assistance animals would be better served if our state statute contained more comprehensive guidelines regarding what constitutes both appropriate animal behavior and handler control while in a public setting.

NEW MEXICO LAW (excerpt) broadly states:

*"A qualified assistance animal shall be admitted to any building open to the public and to all public accommodations... provided that the animal is under the control of an owner or a trainer of the qualified assistance animal."*

Whereas the AMERICANS WITH DISABILITIES ACT (excerpt) more specifically states:

*"A person with a disability cannot be asked to remove his/her service animal from any public premises unless: the animal is out of control and the owner cannot or does not control it (i.e. barking, lunging, jumping on others, pulling out of the owner's immediate area) or the animal is not housebroken." "Service animals must be harnessed, leashed or tethered, unless these devices interfere with the service animals' work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective means."*

I believe that access and safety would be significantly improved if there were to be greater clarity and education contained in the tools we need for adequate enforcement of assistance animal laws to protect the health and safety of both humans and animals.



NEW MEXICO ACADEMY OF FAMILY PHYSICIANS

RESOLUTION OF THE BOARD OF DIRECTORS

WHEREAS, the New Mexico Academy of Family Physicians represents over 800 family physicians in New Mexico who treat children and their parents every day; and

WHEREAS, the Academy's members recognize the importance of insurance coverage to the health of children and families because coverage is so closely related to regular check-ups, proper immunizations, catching serious illnesses early, properly treating acute and chronic diseases, and other measures that greatly improve personal health, and

WHEREAS, New Mexico Medicaid provides very good insurance coverage for children through the Early Periodic Screening, Diagnosis and Treatment Program, which requires regular well-child check-ups, immunizations, and care for chronic conditions. Children's Medicaid also covers vision, hearing and dental care, which are crucial for children's health and for their ability to participate fully in their schools and communities, and

WHEREAS, there are still an estimated 50,000 New Mexico children who are eligible but not enrolled in Medicaid. Many of them are Native Americans or located in other rural areas, and

WHEREAS, the number of children enrolled in Medicaid has not grown at all since August of 2010, after growing steadily for the previous three years; and

WHEREAS, the Human Services Department has indicated publicly that it is not aggressively reaching out to enroll new children in Medicaid because of concerns about the cost, and

WHEREAS, children's medical insurance is a cost-effective way to keep children from developing medical conditions that are much more expensive to treat than are routine visits.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NEW MEXICO ACADEMY OF FAMILY PHYSICIANS, that we strongly urge the New Mexico Human Services Department take all reasonable steps to enroll the remaining children in New Mexico who are eligible but not enrolled in Medicaid, including adopting streamlined enrollment measures such as Express Lane Enrollment, passive renewal, and automatic transition of one-year-olds from newborn to children's Medicaid, as well as devoting more energy and resources into reaching out to New Mexico families whose children are eligible but not enrolled, and

BE IT FURTHER RESOLVED, that the officers of the Academy are authorized and requested to work with other professional and advocacy organizations to urge the Human Services Department to increase its outreach and enrollment efforts, and

BE IT FURTHER RESOLVED, that the officers of the Academy are authorized and requested to meet with the Secretary of the Human Services Department and the Director of the Medical Assistance Division to urge the Department to take reasonable steps to increase children's enrollment in Medicaid, and

BE IT FURTHER RESOLVED, that a copy of this Resolution be furnished to the Governor, the Secretary of the Human Services Department and the Director of the Medical Assistance Division.

Passed unanimously by the Board of Directors, NM Chapter of the American Academy of Family Physicians on the 21<sup>st</sup> of April, 2012.

## Dede letter

From: **Jill Kennon** (jillbobkennon@yahoo.com)

Sent: Fri 6/22/12 9:34 AM

To: ken collins (on3.go@live.com)

Did you get a chance to look at it? Suggestions?

Senator Dede Feldman,

I know you are busy and I'll be as brief as I can. I appreciate all the work you do for us. It's a tall order and I'm grateful for your help.

I am a participant receiving services on the Mi Via health care waiver. I have a Traumatic Brain Injury. I can see from the agenda for Monday's meeting of the Legislative Health and Human Services Committee that I'm not represented with the speakers scheduled.

I'm not confident about having to wait until 3 in the afternoon for public input, to speak to an adversarial group. So I hope this bit of feedback helps you for your questions for them. We can't speak very well for ourselves and I don't want to endure the placating stares of feigned concern from the head honchos who are pros at this. I'd like to share with you what we have experienced on the Mi Via waiver and what our concerns are for the redesign that the state is proposing.

I could go on for pages, and would be willing to meet with you if you want more information about this. But, again, I know you are busy, so here's the gist:

Mi Via saved my life. Before the waiver, I was declining, couldn't work, and couldn't seriously take on any kind of brain recovery. I was going down.

The reasons Mi Via saved my life are that it allowed for the flexibility to self direct care to maximize my potential. Recovery from brain injury is beyond a conventional medical model. What has turned the corner in healing, for me, are modalities and goods that weren't expensive, but appear to be increasingly threatened for coverage by the mindset of MCOs that are geared toward institutions and hospitals and centralization as opposed to community based and cutting edge brain treatments and cognitive therapies that helped so much. The face to face care from agencies, and care workers on the local level, who KNOW us, is also being phased out or denied inclusion to compete for the contracts. This connected knowing help is gigantic. MCOs don't do this. And most of the local connection is non-profit. (less overlay)

The brain injured require different criteria than other health concerns. The new changes threaten our population. I'm concerned that because Xerox made things so difficult, the program is being erased. This will hurt us more. It's not the fault of the program, it's the faulty design of the processing.

Xerox screwed up the processing so much that we were significantly traumatized. I could give many many examples. Many you have heard, and they still continue. More problems have been created. I can give examples.

Because we have to pretty much be sub-poverty to qualify for Mi Via, this has to be fully understood in our profile for care. Stress is the number one obstacle to well being and poverty is a number one stressor. There are others.

When Xerox delays processing and services get turned off we are stuck with late fees and reconnect charges. We have no flexibility to cover anything. We have no savings. We have no emergency sources. This has to be understood. And Xerox and Medicaid refuse to own their mistakes and reimburse us for the hardship. This is a major contributor to stress, decline and injury.

When Xerox staffs their call center with people who lie to cover their butts, it causes stress. We have been repeatedly told things like "the check is in the mail" and then weeks later find out that it was never linked to the budget and never processed. This is just one example of many. There are many.

When your lifeline is cut off with services, or home care, or goods, the consequences are dramatic. I can give examples of the trauma.

When processing is redundant, unpredictable, or insecure, it's an unbelievable twist in the mind of someone under stress with cognitive difficulties AND in poverty. This, I believe is not only misunderstood, but frankly ignored and we end up being abused. I can give examples.

When Xerox requires for direct deposit of their checks, that they can have access to the worker or vender's bank account, it's bad business and part of an abusive power trip. We had a home care worker who was presumably over paid for some time. Xerox wanted their pay back, so they went into the account withdrew all the money at

once, which included the worker's rent money and the worker was evicted from their home. This is just one example. It's another red flag that shows the truth of Xerox. I have many. When you are poor, these things impact very dramatically. They cause harm.

The harm is physical with neglect and stress. The harm is emotional and mental with stress and hopelessness. There have been numerous suicide attempts and ideation over the insecurity this creates. I have examples of this that I can share. I have seen people who were doing ok and enthused at the potential of Mi Via who went into decline from the processing errors of Xerox.

I'd love to discuss enlightened criteria for brain injury care. For instance, denying a good or service because it might be something that a normal person would purchase, is missing the point that we are in poverty and may really need that item for our physical well being. We have no other resources or we wouldn't be on the program. This has to be understood for our care.

Denying some kind of training out in the community that can significantly improve our connection, expression, and cognitive abilities because Molina calls it "entertainment" is a profound misunderstanding of brain injury and poverty.

I'd love to feel confident that Mi Via will continue as a waiver for brain injury. We need it as a waiver to fulfill our unique needs.

Thank-you very much for listening, Senator Feldman.

Sincerely,

Jill Kennon

Phone - 575-805-5071

P.O. Box 372

Mesilla, New Mexico, 88046

Police report for break in and threat to kill Ken Collins by James Barber on 6/20/12 at Ken's trailer – 709 Crystal, Gamerco.

When I arrived home at around 4:45 PM, I saw that my vacuum cleaner was outside my trailer in the driveway. Thinking one of my dogs might have drug it out of the old building in back of my trailer I open my gate and walked over to pick it up and move it so I could drive in and park my 4 Runner.

As I rounded the corner of my trailer I saw that my front door was open and my window in front of the trailer was broken. I continued to walk toward my front door and saw the foot of someone sticking out of the front door and as I got closer I recognized a neighbor sitting at the door cross legged and holding a large steak knife in each hand. When I approached him I ask him "what the fuck are you doing here!" and he looked up and said "You are going to die". I stepped back and asked him again what he was doing there and he said again "You are going to die" and when he started to get up I took off around the corner and called 911 on my cell phone. As I was talking to 911 I walked across Crystal to the field about 25-30 yards speaking with 911. I was telling him to stay away from me and hung up on 911 once he got about 10 yards from me. He had a knife in each hand and said he was going to kill me and I was looking for a rock to throw at him but could only find a big dirt clod. When he was about 15 feet from me I threw it and nailed him in the chest with it but it didn't stop him so I picked up another dirt clod and hit him in the shoulder causing him to drop one of the knives.

He continued to walk towards me with the other knife in his hand as he lunged at me with the knife I used an old "bouncer move" and took him to the ground and placed my left forearm on his throat and my right knee on his left wrist. He tried to get up but couldn't because of my forearm on his throat and my knee on his wrist and me telling him to stay down. He cut me just above my right knee with the knife before I could take it out of his hand.

I got up and told him to stay down and then 911 called me back as I walked back to my trailer and tried to lock the gate so he couldn't get back in. I couldn't get the gate locked in time and when he tried to open the gate I pushed him back and he fell backwards and hit the back on his head on the ground. He was knocked out for a few minutes and then got up and walked around to the other side of my trailer and fell over under a big tree and laid there in the shade for a while before getting up and putting the knife he had in his back pocket. I yelled at him saying the Sheriff was on the way and he walked over to the old Crib Factory in back of my trailer. Then the Sheriff arrived and said for me to stay out of the way and walked in and took control of the situation by Tazing and cuffing him. Those skills saved my life last Wednesday!!! and cuffing him. We tried to find the knife he had on him but couldn't find it. I told the Sheriff I would look for it but I couldn't find it.

I walked into my trailer and found that he had trashed my computer and turned over my big screen TV. He had also taken some cords and a surge protector and placed it in the ice chest

from in front of my chair that I use as a foot stool. My guess is that he was loading up these items and was going to steal them before he went crazy and destroyed my TV and computer.

I thought that my African Grey parrot was gone but later found her on the floor of my bedroom after returning home from the ER where a doctor looked at the cut just above my right knee.



THE TRUTH WELL TOLD

# Independent

Friday

June 22, 2012  
Number 178 Volume 12



GALLUP, NEW MEXICO 87301

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## Social worker attacked by knife- wielding man

By Bill Donovan  
Independent correspondent

GALLUP — A Gamerco resident had to fend off a long knife attack from one of his clients at his home Wednesday.

The attacker, James Barber, 57, of Gamerco, was charged with four felonies and one misdemeanor for attacking Ken Collins, 61, and trying to burglarize his home.

Collins, who is program manager at San Juan Center for Independence in Gallup, told McKinley County Sheriff's Office deputies that he came home about 4:40 p.m. and found Barber in his home, holding a knife in each hand.

Collins said he knew something was not right before this when he saw his vacuum cleaner on the ground outside his door.

He then saw Barber, with blood on his face and head, sitting inside the door with two knives. Barber stood up and approached him, saying he was going to kill him, Collins said.

Collins said he called 911 but lost contact before he could give them the details because Barber allegedly advanced toward him in a threatening manner.

### Attack

Continued from Page 1

Collins ran to the dirt lot east of his home with Barber still behind him. Collins said he picked up a clump of dirt and threw it at Barber hitting him in the chest.

He got another clump of dirt and hit Barber this time in the right shoulder.

At that point Barber allegedly lunged at him with a knife, but Collins said he was able to dodge the knife and take Barber to the ground, causing him to drop one of the knives.

When Collins later showed deputies the area where the two fell to the ground, deputies said they saw blood on the ground.

With Barber still on the ground, Collins got up and ran back to his house while at the same time calling 911 for the second time.

This time he was able to give Metro Dispatch enough information.

Barber continued to come at him, even after Collins smacked him with his front gate.

After that, Collins said Barber came back into the yard and lay down under a tree.

Collins said Barber stayed down for a while and then got up, heading for an old building

west of Collins' trailer as sheriff's office deputies arrived.

One of the deputies also saw Barber heading toward the building and yelled at him to stop. When he didn't, the deputy used his Taser to stop him.

Deputies found one of the knives by the gate where he had dropped it but could not find the second one.

Collins then showed deputies the inside of his home where furniture, computers and a large television had all been thrown on the floor.

There was also broken glass on the floor from the front window that Barber had broken. Collins said he didn't know why Barber had broken the window since the door was unlocked.

Collins said that he was acquainted with Barber because he was a client, adding that he had even given Barber rides into Gallup on a few occasions.

Barber was taken to the McKinley County Adult Detention Center where he was charged with aggravated assault with a deadly weapon; assault with intent to commit a violent felony; criminal damage to property; aggravated burglary; and resisting, evading and obstructing a police officer.



# State of New Mexico

Susana Martinez  
*Governor*

June 18, 2012

Ken Collins  
709 Crystal  
Gamerco, NM 87317

Dear Mr. Collins,

I am pleased to take this opportunity to appoint you to the Statewide Independent Living Council, and do authorize and empower you to execute and fulfill the duties of that office according to the law, and to uphold said office with the rights and emoluments thereto legally appertaining unto you.

Your term commences on April 11, 2012, and expires October 1, 2013.

Sincerely yours,

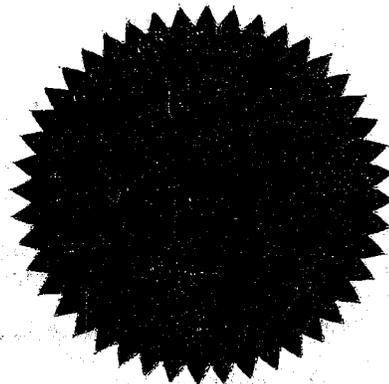
A handwritten signature in cursive script that reads "Susana Martinez".

Susana Martinez  
Governor

Attest:

A handwritten signature in cursive script that reads "Dianna J. Duran".  
Dianna J. Duran  
Secretary of State

SM/jqr



**Laurence Shandler, MD, FAAP  
1418 Luisa Street Ste 5  
Santa Fe NM 87505  
505-988-8024**

**June 25, 2012**

**I have been a pediatrician, practicing in Santa Fe for over three decades. I am the physician member of the HSD Medicaid Advisory Committee.**

**I, along with other pediatricians throughout New Mexico, support the aims of Centennial Care; improve the health of the people we serve, emphasize quality care and reduce per capita costs of health care. I, along with other pediatricians throughout New Mexico, realize that a sound and successful Medicaid system is crucial to insure the stability of the entire child health care system.**

**Although, I, along with other pediatricians throughout New Mexico, support most of the proposed Centennial Care, there are several concerns that I need to raise:**

**Centennial Care, just as our current Medicaid system, needs to insure that all eligible children are enrolled. Under the current Medicaid program there are an estimated 50, 000 children who are Medicaid eligible but not enrolled. The enrollment process must be accessible and easy for children, parents and providers.**

**The 90 day retroactive eligibility needs to be part of the Centennial Care program. If a child is born at 30 weeks gestation (2 1/2 months early), parents and providers must be assured that child will have coverage from birth. Parents and providers need to concentrate on providing the life saving care and not be concerned about lack of coverage because the parents did not immediately provide all the information needed for enrollment.**

**As Centennial Care reduces the number of MCOs and combines physical and mental health into single MCOs, children, parents and providers need a system that doesn't cause gaps in care or difficulties with accessing care from pediatric specialists. This is especially important for those children with special care needs.**

**The American Academy of Pediatrics is one of the original champions of the Patient Centered Medical Home. The New Mexico Pediatric Society, our state chapter of the AAP, through our NM Pediatric Council has worked with Medicaid insurers and well as private commercial insurers to develop programs that increase medical care coordination and improve health outcomes. We want to continue this process. However the role of Patient Care Medical Homes in Centennial Care is not yet clarified.**

**Since so many of New Mexico's children have access to their pediatric health care services through Medicaid, the Medicaid system is essential to maintaining the entire pediatric health care system. A well functioning Medicaid system will not only improve the health of those children it serves but help improve the health of all of New Mexico's children.**

**Sincerely,  
  
Laurence Shandler, MD FAAP**

New Mexico Pediatric Society

Resolution of the Membership

June 23, 2012

Whereas, the NMPS represents over 300 Pediatricians in New Mexico who care for children every day; and

Whereas, the members of the NMPS recognize the importance of insurance coverage to ensure good health and well-being of children because said coverage is closely related to regular preventive care services, proper treatment of acute and chronic disease, and other measures that greatly improve children's health; and

Whereas New Mexico Medicaid provides very good insurance coverage for children through the Early Periodic Screening, Diagnosis and Treatment Program, which requires regular well-child-checks, immunizations, and care for chronic conditions. Children's Medicaid also covers developmental, vision, hearing, and oral health care. This coverage is crucial for children's health and for their ability to fully participate in their schools and communities; and

Whereas, there are still an estimated 50,000 New Mexico children who are eligible but not enrolled in Medicaid. Many of them are Native Americans and/or located in rural areas; and

Whereas, the number of children enrolled in Medicaid has not grown at all since August of 2010, after steady growth for the previous three years; and

Whereas, the Human Services Department has indicated publicly that it is not aggressively reaching out to enroll new children in Medicaid because of concerns about the cost; and

Whereas, children's medical insurance is a cost-effective way to keep children from developing medical conditions that are much more expensive to treat than are routine visits; and

Whereas enrolling all Medicaid eligible children helps to insure the economic stability of the entire child health care system; and

Whereas New Mexico's Pediatricians care for all children, enrolling all Medicaid eligible children will advance that goal.

Now therefore, be it resolved by the officers of the New Mexico Pediatric Society, that the New Mexico Human Services Department take all reasonable steps to enroll the remaining children in New Mexico who are eligible but not enrolled in Medicaid, including adopting streamlined enrollment measures such as Express Lane Enrollment, passive renewal, and automatic transition of one-year-olds from newborn to children's Medicaid; as well as devoting more energy and resources into reaching out to New Mexico families whose children are eligible but not enrolled; and

Be it further resolved, that the officers of the New Mexico Pediatric Society are authorized and requested by the membership of the New Mexico Pediatric Society to meet with the Secretary of the Human Services Department and the Director of the Medical Assistance Division to urge the Department to take reasonable steps to increase children's enrollment in Medicaid; and

Be it further resolved, that a copy of this resolution be furnished to the Governor, the Secretary of the Human Services Department and the Director of the Medical Assistance Division.

Hello, my name is Tess Vasquez I am a Family Living Provider, within the State of New Mexico's DD Waiver. The 1915c "DD Waiver" was approved by Medicaid in 2011. My interest today is to address changes in the 1115 Medicaid Waiver.

I am a caregiver for my Son/Daughter Miguel, an individual of 41 years of age.

Miguel has been diagnosed with: mental retardation, borderline C.P., Behavioral issues

As a Provider whose individual receives assistance through Medicaid, I am first and foremost concerned about the proposed:

"Long-term services" - There is will be "expenditure boundaries" that cap the amount of longterm services an individual will be able to get. The state hasn't said what the limits will be, but arbitrary limits that prevent a person from getting the level of services he or she needs are very problematic. People should get the services they need to maintain their health and live independent, integrated. Lives in the community.

*The New Mexico Waiver Provider's Mission Statement:*

*As Waiver Provider's our primary focus shall always be: "protecting the quality of life, the safety and the dignity of those individuals being cared for by all Waiver Providers."*

Thank you.

Printed name: Tess Vasquez

Signature: Tess Vasquez Date: 6-25-2012

Ernestine  
6-25-12

Hello, my name is Ernestine Morales I am a Family Living Provider, within the State of New Mexico's DD Waiver. The 1915c "DD Waiver" was approved by Medicaid in 2011. My interest today is to address changes in the 1115 Medicaid Waiver.

I am a caregiver for my Son/Daughter Monique Morales an individual of 44 years of age.

Monique has been diagnosed with: Microcephaly  
Severe profound.

As a Provider whose individual receives assistance through Medicaid, I am first and foremost concerned about the proposed:

Changes. At our age we find it hard to keep up with all the changes we face daily. Services currently provided through the S.D.W. will not be included in the new program. Last April 2011 our daughter Monique was in the pilot program called the N.M. Support Intensity Scale (SIS). We waited 13 mos. to find out where she would be placed. We disagreed on her placement and have asked for another evaluation. My question is how is her annual budget going to be determined? also why is it the cuts are always with the disabled?

The New Mexico Waiver Provider's Mission Statement:

As Waiver Provider's our primary focus shall always be: "protecting the quality of life, the safety and the dignity of those individuals being cared for by all Waiver Providers."

Thank you.

Printed name: Ernestine Morales

Signature: Ernestine Morales Date: 6-25-12

over

We are told that our daughter should go into subparted living (group home) that costs twice as much as us keeping her home, with family that loves and care for her.

As Monique's mother I am concerned about the proposed change to Medicaid services, where we not only as caregivers but as seniors must choose a Medicaid provider for the provision of health services for Monique just as we have had to for ourselves. We have read that there is a distinct possibility that the state department of health has not researched and vetted an adequate number of service providers. Our experience with so many DOH issues has been to make corrections after the fact rather than established reasonable and practical preplanning.