

AN ACT

RELATING TO HEALTH; AMENDING THE PRIMARY CARE CAPITAL FUNDING ACT TO CLARIFY PROVISIONS AND FACILITATE THE IMPLEMENTATION OF THAT ACT.

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

Section 1. Section 24-1C-3 NMSA 1978 (being Laws 1994, Chapter 62, Section 9) is amended to read:

"24-1C-3. DEFINITIONS.--As used in the Primary Care Capital Funding Act:

A. "authority" means the New Mexico finance authority;

B. "capital project" means repair, renovation or construction of a health facility, purchase of land or acquisition of capital equipment for a health facility;

C. "department" means the department of health;

D. "eligible entity" means a community-based nonprofit primary care clinic or hospice that operates in a rural or other health care underserved area of the state and that has assets totaling less than ten million dollars (\$10,000,000) and is exempt from payment of federal income taxes as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986;

E. "fund" means the primary care capital fund;
and

F. "primary care" means the first level of basic or general health care for an individual's health needs, including diagnostic and treatment services; "primary care" includes the provision of mental health services if those services are integrated into the eligible entity's service array."

Section 2. Section 24-1C-4 NMSA 1978 (being Laws 1994, Chapter 62, Section 10) is amended to read:

"24-1C-4. PRIMARY CARE CAPITAL FUND--CREATION--
ADMINISTRATION--USE.--

A. The "primary care capital fund" is created as a revolving fund in the state treasury. The fund shall consist of appropriations, loan repayments, gifts, grants, donations and interest earned on investment of the fund. Money in the fund shall not revert at the end of a fiscal year.

B. The fund shall be administered by the authority. Administrative costs of the authority or department shall not be paid from the fund. Money in the fund shall be expended only on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the authority or his authorized representative.

C. The authority may make a loan to an eligible entity for the costs of a capital project. Not to exceed

fifty percent of a loan may be repaid by an eligible entity under the terms of a loan agreement that provides for the eligible entity to enter into a contract with the department or the authority to deliver free or reduced-fee primary care services for medically indigent sick persons."

Section 3. Section 24-1C-5 NMSA 1978 (being Laws 1994, Chapter 62, Section 11) is amended to read:

"24-1C-5. RULES.--

A. The department, in conjunction with the authority, shall adopt and periodically review and update rules to administer and implement the provisions of the Primary Care Capital Funding Act, including provisions for:

(1) the determination of rural or other health care underserved areas of the state in which eligible entities may receive loans or contracts for services from the fund;

(2) procedures and forms for applying for loans or contracts for services for capital projects;

(3) documentation required to be provided by the applicant to justify the need for the capital project;

(4) documentation required to be provided by the applicant to demonstrate that the applicant is an eligible entity;

(5) procedures for review, evaluation and

approval of loans and contracts for services, including the programmatic, organizational and financial information necessary to review, evaluate and approve an application;

(6) evaluation of the ability and competence of an applicant to provide efficiently and adequately for the completion of a proposed capital project;

(7) approval of loan and contract for services applications, including provisions that accord priority attention to areas with the greatest need for primary care services;

(8) fair geographic distribution of loans and contracts for services;

(9) requirements for repayment of loans, including payment schedules, interest rates, loan terms and other requirements;

(10) ensuring the state's interest in any capital project; and

(11) requirements deemed necessary by the department and the authority to ensure that the state receives the primary care services for which the legislature appropriates money and that protect the state's interest in a capital project.

B. Rules adopted by the department shall become effective when filed in accordance with the provisions of the State Rules Act."

Section 4. Section 24-1C-6 NMSA 1978 (being Laws 1994, Chapter 62, Section 12, as amended) is amended to read:

"24-1C-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

A. The department and the authority shall administer the loan programs and contracts for services authorized pursuant to the provisions of the Primary Care Capital Funding Act. The department and authority shall:

(1) enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of that act; and

(2) apply to any appropriate federal, state or local governmental agency or private organization for grants and gifts to carry out the provisions of that act or to fund allied community-based health care programs.

B. The department and authority may:

(1) make and enter into contracts and agreements necessary to carry out their powers and duties pursuant to the provisions of the Primary Care Capital Funding Act; and

(2) do all things necessary or appropriate to carry out the provisions of the Primary Care Capital Funding Act.

C. The authority is responsible for all financial duties of the programs, including:

- (1) administering the fund;
- (2) accounting for all money received, controlled or disbursed for capital projects in accordance with the provisions of the Primary Care Capital Funding Act;
- (3) evaluating and approving loans and contracts for services, including determining financial capacity of an eligible entity;
- (4) enforcing contract provisions of loans and contracts for services, including the ability to sue to recover money or property owed the state;
- (5) determining interest rates and other financial aspects of a loan and relevant terms of a contract for services; and
- (6) performing other duties in accordance with the provisions of the Primary Care Capital Funding Act, regulations promulgated pursuant to that act or joint powers agreements entered into with the department.

D. The department is responsible for:

- (1) defining sick and medically indigent persons for purposes of the Primary Care Capital Funding Act;
- (2) establishing priorities for loans and contracts for services;
- (3) determining the appropriateness of the capital project;

(4) evaluating the capability of an applicant to provide and maintain primary care or hospice services;

(5) selecting recipients of loans and persons with whom to contract for services;

(6) determining that capital projects comply with all state and federal licensing and procurement requirements; and

(7) contracting with an eligible entity to provide primary care services without charge or at a reduced fee for sick and medically indigent persons as defined by the department.

E. The authority may make a loan to an eligible entity to acquire, construct, renovate or otherwise improve a capital project, provided there is a finding:

(1) by the department that the project will provide primary care services to sick and medically indigent persons as defined by the department; and

(2) by the authority that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions on other encumbrances and pledges for the state funds extended for the loan." _____

