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**SENATE BILL 648**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Manny M. Aragon**

**AN ACT**

**RELATING TO MEDICAID; REQUIRING LEGISLATIVE CONSULTATION AND APPROVAL FOR MEDICAID PROGRAM CHANGES; REQUIRING THAT INFORMATION AND PERFORMANCE MEASURES BE REPORTED TO THE LEGISLATURE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.**

**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 CONSULTATION WITH THE LEGISLATURE-- INFORMATION. --**

**A. The department shall consult with the legislative health and human services committee and the legislative finance committee, prior to submission to the federal health care financing administration, about matters involving modifications, amendments or waivers to Title 19 or**

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1 Title 21 of the federal act, including amendments or  
2 modifications to existing waivers.

3 B. The department shall provide to the legislative  
4 health and human services committee and the legislative  
5 finance committee copies of all correspondence between the  
6 department and the federal health care financing  
7 administration relating to:

8 (1) modifications, amendments or waivers to  
9 Title 19 or Title 21 of the federal act, including  
10 modifications to the state health plan;

11 (2) upper payment limit negotiations; and

12 (3) issues that may impact the operations,  
13 performance or financing of the state programs pursuant to  
14 Title 19 or Title 21 of the federal act.

15 C. The department shall report to the legislature  
16 by November 1 of each year the following medicaid information  
17 for the prior fiscal year:

18 (1) utilization by type of service under fee-  
19 for-service and managed care;

20 (2) expenditures by type of service under  
21 fee-for-service and managed care;

22 (3) summary data and analysis of grievances  
23 and complaints filed with the department;

24 (4) summary data and analysis of appeals,  
25 complaints and grievances filed with and utilization

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1 management decisions made by managed care contractors;

2 (5) assessment of the adequacy of access by  
3 type of service; and

4 (6) assessment of the state's medicaid  
5 managed care plan's performance as compared to the performance  
6 of the state's commercial insurers and medicaid nationally as  
7 measured by the health plan employer data information set or  
8 an equivalent national performance measurement set. "

9 Section 2. Section 27-1-3 NMSA 1978 (being Laws 1937,  
10 Chapter 18, Section 4, as amended) is amended to read:

11 "27-1-3. ACTIVITIES OF HUMAN SERVICES DEPARTMENT. --The  
12 [~~human services~~] department shall be charged with the  
13 administration of all the welfare activities of the state as  
14 provided in Chapter 27 NMSA 1978, except as otherwise provided  
15 for by law. The [~~human services~~] department shall, except as  
16 otherwise provided by law:

17 A. administer old age assistance, aid to dependent  
18 children, assistance to the needy, blind and otherwise  
19 handicapped and general relief;

20 B. administer all aid or services to crippled  
21 children, including the extension and improvement of services  
22 for crippled children, insofar as practicable under conditions  
23 in this state, provide for locating children who are crippled  
24 or who are suffering from conditions [~~which~~] that lead to  
25 crippling, provide corrective and any other services and care

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1 and facilities for diagnosis, hospitalization and after-care  
2 for children who are crippled or who are suffering from  
3 conditions [~~which~~] that lead to crippling, and supervise the  
4 administration of those services [~~which~~] that are not  
5 administered directly by the department;

6 C. administer and supervise all child welfare  
7 activities, service to children placed for adoption, service  
8 and care of homeless, dependent and neglected children,  
9 service and care for children in foster family homes or in  
10 institutions because of dependency or delinquency and care and  
11 service to any child who because of physical or mental defect  
12 may need such service;

13 D. formulate detailed plans, make rules [~~and~~  
14 ~~regulations~~] and take action deemed necessary or desirable to  
15 carry out the provisions of Chapter 27 NMSA 1978 and [~~which~~]  
16 that is not inconsistent with the provisions of that chapter;

17 E. cooperate with the federal government in  
18 matters of mutual concern pertaining to public welfare and  
19 public assistance, including the adoption of such methods of  
20 administration as are found by the federal government to be  
21 necessary for the efficient operation of the plan for public  
22 welfare and assistance;

23 F. assist other departments, agencies and  
24 institutions of local, state and federal governments when so  
25 requested, cooperate with such agencies when expedient in

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1 performing services in conformity with the purposes of Chapter  
2 27 NMSA 1978 and cooperate with medical, health, nursing and  
3 welfare groups, any state agency charged with the  
4 administration of laws providing for vocational rehabilitation  
5 of physically handicapped persons and organizations within the  
6 state;

7 G. act as the agent of the federal government in  
8 welfare matters of mutual concern in conformity with the  
9 provisions of Chapter 27 NMSA 1978 and in the administration  
10 of any federal funds granted to this state, to aid in  
11 furtherance of any such functions of the state government;

12 H. establish in counties or in districts, which  
13 may include two or more counties, local units of  
14 administration to serve as agents of the department;

15 I. at its discretion, establish local boards of  
16 public welfare for such territory as it may see fit and by  
17 rule [~~and regulation~~] prescribe the duties of the local board;

18 J. administer such other public welfare functions  
19 as may be assumed by the state after the effective date of  
20 this section;

21 K. carry on research and compile statistics  
22 relative to the entire public welfare program throughout the  
23 state, including all phases of dependency, defectiveness,  
24 delinquency and related problems, and develop plans in  
25 cooperation with other public and private agencies for the

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1 prevention as well as treatment of conditions giving rise to  
2 public welfare problems; [~~and~~]

3 L. inspect and require reports from all private  
4 institutions, boarding homes and agencies providing  
5 assistance, care or other direct services to children who are  
6 crippled, neglected, delinquent or dependent, the aged, blind,  
7 feeble-minded and other dependent persons; and

8 M identify health-related programs in the  
9 department and in other state departments, including the  
10 department of health, the state department of public education  
11 and the children, youth and families department, that are  
12 eligible for federal matching funds through Title 19 or  
13 Title 21 of the federal Social Security Act or similar  
14 programs and establish, maintain and assist those state  
15 departments in establishing and maintaining mechanisms  
16 necessary to obtain the most favorable federal matching funds  
17 appropriate for those programs.

18 Nothing contained in this section shall be construed to  
19 authorize the department to establish or prescribe standards  
20 or [~~regulations~~] rules for or otherwise regulate programs or  
21 services to children in group homes as defined in Section 9-8-  
22 13 NMSA 1978. "

23 Section 3. Section 27-2-12.6 NMSA 1978 (being Laws 1994,  
24 Chapter 62, Section 22) is amended to read:

25 "27-2-12.6. MEDICAID PAYMENTS--MANAGED CARE. --

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1           A. The department shall provide for a statewide,  
2 managed care system to provide cost-efficient, preventive,  
3 primary and acute care for medicaid recipients by July 1,  
4 1995.

5           B. The managed care system shall ensure:

6                   (1) access to medically necessary services,  
7 particularly for medicaid recipients with chronic health  
8 problems;

9                   (2) to the extent practicable, maintenance of  
10 the rural primary care delivery infrastructure;

11                   (3) that the department's approach is  
12 consistent with national and state health care reform  
13 principles; and

14                   (4) to the maximum extent possible, that  
15 medicaid-eligible individuals are not identified as such  
16 except as necessary for billing purposes.

17           C. The department may exclude nursing homes,  
18 intermediate care facilities for the mentally retarded,  
19 medicaid in-home and community-based waiver services and  
20 residential and community-based mental health services for  
21 children with serious emotional disorders, mental and  
22 behavioral health services and other services from the  
23 provisions of this section.

24           D. The department shall establish procedures to  
25 ensure the availability to the legislature by January 1 of

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1 each year the negotiated proposed rates payable under this  
2 section for the subsequent fiscal year.

3 E. The department shall not enter into agreements  
4 pursuant to this section without consultation and approval by  
5 the legislature for rates that exceed the upper payment limit  
6 first approved by the federal health care financing  
7 administration or increases in rates that exceed the projected  
8 medical inflation rate for the period of the contract.

9 F. All contracts entered into by the department  
10 pursuant to this section shall require compliance with federal  
11 law and state law to the extent not explicitly prohibited by  
12 federal law, including:

13 (1) the Patient Protection Act;

14 (2) the clean claim timeliness provisions  
15 pursuant to Section 59A-2-9.2 NMSA 1978;

16 (3) Title 19 and Title 21 of the federal act;

17 (4) the federal Health Insurance Portability  
18 and Accountability Act of 1996; and

19 (5) other laws providing for the protection  
20 of patient interests and quality of care.

21 G. The department shall maintain utilization and  
22 payment data by type of service for services provided pursuant  
23 to this section.

24 H. Contracts pursuant to this section shall  
25 include provisions for development and implementation of

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1 standardized and uniform forms and administrative procedures  
2 for direct service providers.

3 I. The department shall include performance  
4 provisions in contracts pursuant to this section, including:

5 (1) applicable performance measurements  
6 consistent with the department's performance measurements  
7 pursuant to the Accountability in Government Act; and

8 (2) by July 1, 2004, incentives for obtaining  
9 contract performance standards."

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